The American Political Science Review

VOL. XXVIII FEBRUARY, 1934 NO. 1

7409

FACT AND FICTION IN GOVERNMENT*

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Three decades have elapsed since the first president of the American Political Science Association at its inaugural meeting described the objects and purposes that it should pursue. Some of his successors have discussed various details of this program and others have reviewed the results achieved. Due recognition has been accorded to the significance of historical backgrounds, legal systems, and political theory. In addition, emphasis has been placed upon the importance of an understanding of the government as it actually functions. Hence, much of the work of this Association and its members has been devoted to the investigation and exposition of those customs, procedures, and institutions which, with or without any recognition by constitution or statute, exercise a profound influence over governmental organization and function.

It is natural that during this period significant changes should have appeared in the scope of Political Science and in the character of the techniques employed, with resulting differences in data and conclusions. Increasing evidence has been furnished of the close relation between politics and the other social sciences and the natural sciences. Efforts have been made to utilize the facts and methods in these fields for a better application of government as it is or as it ought to be. Many persons have doubts regarding the contributions that may be made by some of these cognate sciences, but there can be little question regarding the value of a greater utilization of the scientific attitude and of all relevant data in arriving at a better understanding of the actual government of human relations.

* Presidential address delivered before the American Political Science Association at its twenty-ninth annual meeting, Philadelphia, Pa., December 27–29, 1933.

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Governmental affairs have felt the influence of the work of this Association during the past thirty years, but the effect has not corresponded with the great progress and accomplishments of this organization and its members. Of more significance is the fact that even less influence in general has been exercised upon the electorate or its leaders. This is clearly shown when we contrast this result with that achieved by the natural sciences. Today, there is widespread popular acceptance of the application of the principles established by scientific research in dealing with matters of our physical environment. No one today seriously contends that physical problems affecting health and safety, transportation and communication, industry and agriculture, should be solved in accordance with the knowledge of natural phenomena that prevailed in the mediæval world. Superstition and tradition have been displaced by the irresistible evidence of realities.

On the other hand, in political relations, devotion and adherence to principles and institutions that were formulated during by-gone centuries are factors that exercise a profound influence. However overwhelming the evidence that these no longer exist or are inapplicable to present conditions, it is powerless to overcome traditional beliefs based upon the kind of world that is preferred and which, it is hoped, can be maintained. Even when due allowance is made for the greater accuracy of the data secured by research in natural science, it would seem that there must be other reasons to account for the vast differences which are found in the acceptance and application of principles in the two fields.

Students of politics have been influenced by the spirit and have used the methods of natural science in their endeavor to discover truth and reality in government. Aristotle, with whom the science of politics begins, understood and emphasized the importance of a knowledge of the facts of our social as well as of our physical world. Machiavelli was the first man in the Middle Ages who utilized similar methods. While he may have justified falsehood and deception as necessary for the maintenance of despotic power, an end which he believed desirable under the conditions existing in Italy at that time, he used realistic methods in arriving at an understanding of the political conditions of his time.

The theory of the social contract, on the other hand, introduced politics to the realm of fiction and imaginary human beings. The practical results which it secured in the development of limited, rep-

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resentative government cannot obscure the great influence which it exercised in promoting the acceptance of unrealities in political affairs. While modern political science, in returning to more rational methods, has furnished an antidote to such idealistic theory, the effects of the latter are still manifest.

Despite this prevailing influence, American leaders in the eighteenth century were far more realistic in political affairs than are their modern successors. They clearly recognized the inadequacy of the Articles of Confederation and the ultimate result of continuing their government under that instrument. Notwithstanding the jealousy with which the states regarded their newly found independence and sovereignty, they were willing to face the fact that these could not be preserved if the Union disappeared, and that this was inevitable under the existing arrangement. The framers of the Constitution found a practical solution in providing for a central government with effective powers in matters of common concern while leaving to the states full control over their internal affairs. Their acceptance of current ideas of individualism and natural rights did not represent any departure from a realistic attitude, as these corresponded largely with, and were adapted to, the actual conditions existing in this country at the time. While they were opposed to governmental interference with or regulation of private social or economic relationships, with few exceptions, they did not deem it necessary nor perhaps desirable to impose positive, constitutional restrictions upon such action.

On the other hand, today many citizens believe that the doctrine of *laissez faire* was incorporated into our organic law, and traditions of eighteenth century individualism exercise a powerful influence. Despite the revolutionary changes that have occurred, even within their own experience, many fail to appreciate the truth that in social relationships "all things flow—nothing abides." Their imagination is uncontrolled by the evidence of facts, and their decisions are governed by idealistic elements.

Opinions that are widely prevalent today concerning our Constitution reveal the influence of these unrealities. Some regard this instrument as the result of speculative creation rather than practical adaptation. It is also believed that the Constitution is fixed and immutable and has undergone no changes except those provided by formal amendments. Many are unaware of the influence of economic and technological changes upon political institutions.

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Others may be sufficiently naïve to believe that the fathers contemplated and provided for the present exercise of governmental powers. Most of those who insist upon its unchangeable character, however, assert that judicial interpretation has preserved the balance, rejecting those acts that are in conflict and sustaining those that are in accord with the provisions of the Constitution. They fail to perceive that in many cases, during the last three decades, that have been decided by a divided Court, the justices have differed not so much regarding legal principles as concerning the existence and nature of certain facts.

Whether one accepts the theory of judicial interpretation or takes the position that the courts have expanded the Constitution in the exercise of their function of judicial review, another problem in actuality is presented. Politics, like its sister social sciences, has been obliged to recognize that it does not operate in a vacuum. While members of the Supreme Court, though differing in their social and economic views, generally follow accepted legal principles, it is clear that judicial review in some controversies does not function in accordance with prevailing canons of interpretation. In a series of cases involving labor statutes that were decided by a divided court, it was found that some of the members were uniformly in favor of the constitutionality of the acts while others just as consistently held these invalid. It is natural to assume that traditional ideas or other factors influenced the opinions of these judges regarding certain facts and their significance in determining the conformity of legislation to the requirement of due process of law. Hence, there has developed a tendency to subject to minute examination and detailed criticism the previous records of those who are nominated as justices of the Supreme Court. A popular demand has arisen for the consideration of psychological factors as well as personal integrity, legal ability, and judicial training in the selection of members of this tribunal.

Another group rejects all of the foregoing views regarding the Constitution. While admitting that it was suitable for the conditions existing in the eighteenth century, they insist that it is not adapted to the present time, and that many of its fundamental features have been discarded. As they believe that government is being carried on largely in conflict with the Constitution, the demand is voiced for a general revision that will make our organic law conform to modern conditions. While most of those who take

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this attitude have been classed as "radicals," their ranks, in view of recent developments, have been augmented by outstanding conservatives. The latter, believing that the Constitution was intended to maintain the individualistic state, insist that it cannot be adapted to a collectivistic society and that this reality should be faced and embodied in a new instrument. The conflict between the advocates of the flexibility of the Constitution and the proponents of its collapse presents a major problem of modern politics.

While the function of judicial review in declaring legislative acts to be in conflict with the Constitution has become more realistic, it is not unaffected with imaginary concepts. It is generally believed that decisions which prevent legislation for which there is a wide popular demand may be properly overcome only by constitutional amendment. There are not wanting examples, however, which indicate that under certain circumstances this result may be accomplished as a result of the clear declaration of legislative policy, accompanied by the influence of changing conditions upon the personnel of the Court. The Legal Tender Cases and the upholding of the Adamson Act, in Wilson v. New, illustrate this situation, and similar results may follow in such matters as national child labor legislation and acts dealing with minimum wages and yellow-dog contracts.

The enormous difficulty, under normal conditions, in overcoming traditional forms and procedures in government is well illustrated in the law governing regular sessions of Congress. The absurdity of having the first regular session of a Congress postponed until thirteen months after the election of representatives and the danger involved in having the old Congress legislate for three months after its successor has been chosen were recognized at an early period. Inertia and traditional adherence to established forms, however, were able to prevent a realistic solution for more than a century.

Political parties that have done much to introduce realities in government have themselves suffered from the fictitious influences that affect political institutions. Glittering generalities instead of clear statements regarding real differences usually characterize party platforms. The exception that appeared in the campaign of 1932 emphasizes the general situation. The realignment of voters in parties on the basis of vital issues is prevented, also, by traditions of party regularity.

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Adherence to traditional forms and failure to provide for changing conditions find even more striking illustration in state and local government. With inadequate knowledge of history, many existing institutions are erroneously believed to be the product of eighteenth century wisdom. There is a failure to recognize the evil by-products of the democratic revolution of the nineteenth century, and these share in the sanctity that attaches to the fundamental principles of free government. With few exceptions, the states are engaged in the difficult task of meeting the pressing demands created by complex conditions, with legislatures chosen in accord with principles of representation that frequently do not permit a proper expression of the opinion of the majority. The extensive limitations that have been imposed upon legislative power, with resulting decline in the character of representatives and deterioration in leadership, have further complicated the problem.

The question of administration is equally serious. While state action or control has been introduced in many cases to replace or supplement local authority, uniformity and efficiency are frequently lacking. Conflict between agencies is encouraged by the distribution of functions among many organs that are independent of each other and subject to no supervisory authority. Inefficiency is further promoted by the inadequate character of administrative machinery provided and by the persistence of the spoils system in influencing the recruiting of the personnel.

Local government, with exceptions in some cities, furnishes many examples of the prevailing influence of fiction in political affairs. Governmental areas that formerly corresponded with social and economic conditions are still expected to meet the situation brought about by revolutionary changes in transportation and communication. Tradition and sentiment prevent recognition of the fact that political units should bear a close relation to social and economic unity. Similar influences have caused the retention of antiquated governmental machinery for these areas. The cumulative effect of the failure to deal with the realities of this situation is shown in crushing local tax burdens and increased inefficiency in administration.

While examples of the paralyzing influences of tradition in government could be multiplied indefinitely, hopeful signs of a change in attitude are by no means lacking. Recent developments furnish striking evidence of a tendency to apply realistic methods to politi-

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cal affairs. The Lame Duck and Prohibition Repeal Amendments, the clearer definitions of political party issues in the campaign of 1932, the revolutionary changes introduced by the New Deal legislation of 1933, and the growing conviction, inspired by the increasing burden of taxation, that something is wrong with local and state governmental organization and administration, are examples. These show a decreasing influence of fictions and subjective impressions and a greater insistence upon facts and objective knowledge in democratic government.

The ideas at the basis of the revolutionary legislation of this year were the result of an analysis of our modern complex and economic life. They were advocated for many years without any apparent hope of successful realization. The special session of Congress, however, passed the measures almost without opposition, even from the minority party. While this was due in part to the overwhelming majority secured by the incoming administration and to the fear complex which affected those who were regarded as responsible for the existing disastrous situation, fundamental changes in public opinion also had important influence.

Many persons who were amazed at this result overlooked the cumulative effect of the efforts of the exponents of the new ideas. They also failed to give sufficient weight to the mass of objective facts that have been brought within the personal experience of individuals during the last two decades. Attention has been focused chiefly upon the economic significance of these changes, but political ideas and institutions also have been profoundly affected. In any event, Political Science has an unusual opportunity to capitalize the educational value of these recent realistic manifestations in social relationships.

It is not essential that one should accept the validity of all of the principles upon which a program such as the New Deal is based, still less that approval should be given to all of the methods by which the aims are sought to be enforced. There are dangers in realism as well as in imaginary concepts. Risks are involved in experimentation with our social world, even when this is based upon data that have been secured by the best available methods. But there is at least the possibility of improvement, if not success, while adherence to traditional ideas based upon imaginary conditions will inevitably lead to failure. Nor is there any occasion for despair over the length of time required for progress to mani-

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fest itself. Integrity, courage, and infinite patience are no new qualifications for those who seek to acquire and disseminate knowledge.

The present situation should stimulate the American Political Science Association to continue and expand its activities. Its primary purpose must remain that of the encouragement of the scientific study of Political Science. The promotion of research and the publication of its results will always constitute its greatest contribution. The Sub-Committees on Research and Publication will continue to find ample scope for the promotion of activities in these fields. New interest has been aroused regarding the fundamental features of American government. In his presidential address, last year, Dr. Willoughby voiced the conviction of many that the time has come for a thorough reëxamination of these for the purpose of determining their actual operation and the modifications that experience and changed conditions may suggest.

Schools and colleges may be made effective agencies for promoting realistic tendencies in political affairs. This Association has been deeply interested in the problem of improving the teaching of government, and doctrinaire procedure has been modified in favor of more objective methods. Our Sub-Committee on Political Education, in carrying out one of its purposes, has conducted a series of regional round table conferences participated in by educational administrators, high school teachers, and political scientists. Though still in an experimental stage, this method of frank discussion of problems has demonstrated the beneficial results that may be secured from its continued application.

The Association has been able, also, to take advantage of the opportunity afforded for civic education, particularly of adults, by means of radio programs. Without adequate funds, but with the self-sacrificing labor of its chairman, the Committee on Policy has been able to coöperate in presenting the "You and Your Government" series. There is ample evidence of the educational value of these programs. Every effort should be made to provide the facilities necessary to secure the continued gratuitous allotment of valuable time on radio broadcasts for this purpose.

An important feature of the question of improved instruction in government is that of securing better trained teachers. The Sub-Committee on Personnel has contributed to the solution of this problem by a study of the factors involved and by planning

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methods for the placement of persons who have been properly qualified in this field. Training for public service also has been studied, and plans for bringing students who have acquired this training into contact with public agencies have been formulated.

Realities in governmental affairs are of the greatest significance to public officials. Hence, another important objective of the Sub-Committee on Political Education has been that of promoting a better understanding and coöperation between these officials and political scientists. State and regional round table conferences have been arranged where small, selected groups of public officers, experts and laymen, meeting privately, have been able to engage in frank discussion of problems of state and local government. Through these there has been secured a better knowledge of political agencies and procedures that may furnish a basis for improvement in areas, organization, and functions.

There have been not only concrete practical results, but also great benefits from personal contact between the groups and the development of mutual respect and appreciation. Politicians have found that the political scientists are not merely theoretical reformers, but are able to submit proposals of practical value. On the other hand, the latter gain a better understanding of political processes, of the attitude of public officials, and of the actual influences affecting them. The uniformly favorable reactions resulting from these conferences indicate that the experiment is one of the most desirable methods by means of which this Association may exert an influence upon governmental affairs and justify every effort to secure the continuation of these discussion groups on a more extended scale.

The dissemination of political facts through these various procedures should never become the primary or most important function of the American Political Science Association. As previously indicated, this will always be that of the encouragement of research. If the data secured and principles developed by investigation could be given practical application, vast improvements in governmental structure and administration would result. Public opinion, however, under the influence of traditional ideals, developed under far different conditions, always lags behind a realistic analysis of the present situation. Nevertheless, experience in many cases has shown that while progress may be almost immeasurably slow, consciousness of realities is ultimately acquired

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and this results in surprisingly rapid popular approval of the change. The American Political Science Association has a vital function to perform in these days of quickened interest in public affairs. It is our continuing responsibility to develop the techniques which will be of aid to citizens in distinguishing between fact and fiction in government.

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THE HISTORICAL APPROACH TO THE NEW DEAL*

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With astounding profusion, the presses are pouring out books, pamphlets, and articles on the New Deal. Economists, publicists, politicians, statesmen, editors, and prognosticators are "describing," "interpreting," and "forecasting" the outcome and results of the legislative and executive actions coming within the scope of the New Deal since March 4, 1933. This is proper and natural enough. It is inevitable.

But few of the writers guilty of publication have prefaced their reflections with due notice to the readers respecting the assumptions, methods of reasoning, hopes, fears, and desires actuating their thought at the beginning of their thinking about the description, interpretation, and forecasting operations. Most of them, probably, would say that it is academic to stop to think about what one is doing when one begins to think about social phenomena such as are embraced within the field of the New Deal; but the saying would be an escape, a dodge, or a trick. Why? Because nothing can be described in itself. True, a list of congressional acts may be enumerated and quoted in full, but that is not a description of them, save in a wholly arbitrary sense. It would cut off the acts from the circumstances which gave rise to them and help to give meaning to them. Again, the acts of the New Deal cannot be interpreted in themselves. They can be interpreted only in terms of something else, something broader and deeper than the acts in themselves.

Finally, we come to prognostications relative to the "outcome" or "results" of the acts of the New Deal. In any prognostication respecting human affairs, human desires, hopes, and loves become immediately active. What any economist, editor, publicist, or speculator thinks about the outcome of the New Deal will depend in a large measure on his own wishes in the premises. When an astronomer prognosticates that a comet will return at a given time, he is fairly sure of his facts; but when any prognosticator foretells the outcome of the acts of the New Deal, he is more or

* This brief article, together with that by Dr. Lorwin which follows, may be regarded as in the nature of a prologue to a series in which various authors will during the year interpret fundamental aspects of the New Deal. *Man. Ed.*

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less of a guesser in this vale of tears. Besides, what is an "outcome" or a "result?" Is it an outcome or result in 1936, 1950, or the year 2000? And how broad is the picture to be in which the outcome is depicted? Too much speculation along this line would, no doubt, paralyze the hands of busy authors grinding grist for the day's news.

Well, then, what is the purpose of the above excursus? It is a preface to a plea for the historical "approach" to the New Deal. In the minds of many impatient youths busy with "current events," this will excite derision. Is not the historical "approach" just an old almanac view of things? Is not history "bunk," as one of our now financially bewildered manufacturers described it?

The answer of the present writer is that it is *the only approach* open to the human mind. Why? First, the present is only the past, that is, history, becoming. Second, the only things we know come out of the past becoming in the present. Third, we are reasonably sure of many things that have happened, but we are not so sure of many things that will happen in the near and distant future. Fourth, any discussion of any contemporary, up-to-the-minute, issue must be in terms of things known in the past (if only ten minutes past), and the discusser takes a certain time depth for his purpose, unless he writes in terms of pure speculation for an indefinite future. Even then he can speculate only in terms of the things he knows—things that have come out of the past. Even the most severely systematic economist or political scientist, who often has contempt for the dusty historian, really takes a certain time depth in getting his facts and ideas—a minimum time depth for his *purposes;* and he seldom inquires what his purposes are or where he got them. He silently assumes them and begins.

Now for the business in hand—an historical approach to the New Deal. For reasons of time and space, we do not begin with primitive man, but start far this side of him, knowing full well that we make an unwarranted and arbitrary division in ever-flowing time. We are still, all of us, more or less, primitive men—as lynchings illustrate dramatically and Fascism systematically. But let that pass. We start, arbitrarily, with certain historical facts in the background of American history.

There is in America a long democratic tradition, a care for and interest in, the common run of mortals—farmers, laborers, clerks, floor-walkers, professors, instructors, and section hands. This tra-

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dition runs counter to the interest in bankers, railroad presidents, wheat kings, copper kings, and plutocrats generally—to whom the "press" makes obeisance and the universities give degrees. The traditional interest in the common run is to be found in Jefferson, Fanny Wright, Emerson, Walt Whitman, Sockless Jerry Simpson, and many others of lesser breed. Students of American history know something about them and about the tradition—not enough, to be sure, but still something.

The next historical fact is that there have been several crises in American history: the Revolution and the war for independence, the formation of the Constitution, the revolution of 1800, the calamity of 1819, the upheaval of 1837, the Civil War, the panic of 1873, the smash of 1893, the Bull Moose surge of 1912, the World War, and so on, with many interludes and side shows.

The third pertinent historical fact is that a crisis breaks in upon the routine of life and is accompanied by thought and action. When all goes well, when there are two cars in every garage, two chickens in every pot, and professors can wear broadcloth and spats, there is not much need for thought, outside of the routine. Acquisition and enjoyment are the order of the day. There is nothing wrong about that. It is as natural as our heritage from primitive man. But when a smash comes, we wake up—if only a little bit—and begin to try to think about how we got into the jam and how we can get out of it. And when we begin to think, we can think only in terms of some tradition, some heritage of ideas and interests.

Thus it has happened that in every economic crisis there has been an upsurge of ideas in the democratic tradition mentioned above. There was such an upsurge in the panic of 1893, to go no farther back into the years. It found expression in the Populist assault on "accumulated wealth." Anyone who wants to discover the progenitors of most "new" thoughts in current politics may find them in the Populist platform of 1896. The upsurge was tumultuous and frightened McKinley, Lodge, Hanna, and Company.

But a diversion was found—an exciting diversion in the "glorious" little Spanish war and the imperialist, white man's burden uproar. During the diversion there was an improvement in business, Populism declined, and dollar diplomacy became triumphant at home and abroad.

Things ran along beautifully for several years, but underground the democratic tradition continued, known mainly to a few curi-

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ous intellectuals. Then suddenly came the new upsurge in 1912. Wilson assaulted plutocracy in the best Populist formulations, as anyone can discover by reading his *New Freedom*. Theodore Roosevelt badly damaged President Taft's china shop, and the assembled Christian Soldiers at the Bull Moose convention wrote a platform. If anyone wants a background for the New Deal, let him read that platform from preamble to benediction. And at the same time Eugene V. Debs polled about a million votes. It looked as if something might happen.

Then the World War broke. American capitalists and farmers were both happy for once, selling their commodities to ladies and gentlemen in Europe engaged in burning down their house. What millions and billions circulated around in these United States! What profits and dividends! Why think about anything, except getting and spending?

For the capitalists, the beautiful process went on, save for an interlude about 1920, until 1929. But things were different for the farmers—bearers of the old agrarian tradition. Curious intellectuals amid the urban throngs knew that agriculture was in a bad way, and some of them knew that even when prosperity was filling the heavens with din and color there were a million or two unemployed wretches in town and country. But most of our "big men" and "leaders" reached the conclusion that the nation had at last arrived in the promised land of permanent paradise—attained a permanent high level of prosperity. It seems a bit ironical and funny now, but such was our general mental state.

Then again, as often in history, something unexpected by "gentlemen of position and influence" happened, with the suddenness of a rifle's crack. Adam and Eve were driven out of their paradise, just as they were eating the golden apple. The routine of acquisition and enjoyment was violently disturbed as if by an earthquake, aches and pains were felt in places hitherto calm and placid, and so thought began again. How did we get here, and how can we get out?

And what could we think with? In the main, with the ideas of the democratic tradition—in terms of the Bull Moose platform, the Populist platform, *Democratic Vistas*, Emerson's *Essays*, and other documents inherited from history.

Such is the clue to the historical "approach" to the New Deal. The tradition is being altered, of course, by an influx of ideas im-

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ported from the Old World—as it was during the first French Revolution, the upheavals of 1830 and 1848, the labor movements and the imperialist phantasy in the closing years of the nineteenth century. But if history is any guide, there will be an absorption, not a substitution. History does not exactly repeat itself. It moves.

Now let the systematists who think they can "describe," "interpret," and "prognosticate" do their best with the New Deal.

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SOCIAL ASPECTS OF THE PLANNING STATE

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We are witnessing today in both Europe and America the breakdown of what may be called the nineteenth-century equilibrium, and at the same time the effort to work out a new equilibrium as a basis of life for the twentieth century. The New Deal is the American phase of this movement. We can understand it better if we view it with the search-light of the movements in other countries, and if we make clear to ourselves what is driving them, how they are being driven, and what problems are in their path.

The key to recent social developments seems to me to lie in the resurgence of the middle classes. This is a development of the last decade or so, and is largely the result of the failure of the two other major social groups—the capitalists and the workers—to give Western society, especially Western European society, leadership and direction. On the one hand, the capitalistic groups, while concentrating industrial and financial resources, showed a sad incapacity to establish a leadership based on social needs and moral values. On the other, the working classes, after having reached a position—not here, but in Western Europe—of great strength and influence, proved unable either to achieve enough numerical or social predominance to assume the hegemony of the state or to impose by force the program of socialism which they had preached for half a century.

It was in this social *impasse* that the transformation in the character of the middle classes showed itself. These classes had already been given their first rude jolt by the World War and its aftermath. They had already been made to realize that they were extremely vulnerable, that they could be wiped out by inflation, expropriated by proletarians, and socially devaluated by everybody. For a while it looked as if they were done for in Germany, Italy, and elsewhere. What seemed to loom up before them was a Hobson's choice of either a proletarian dictatorship after the pattern of Soviet Russia or a super-capitalism based on monopolistic cartels in which also they ultimately would be crushed. It was in reaction to both these alternatives that the middle classes began again to bid for national leadership as they had done during the French Revolution and in the early part of the nineteenth century. They defied with new energy the challenge of the proletariat and the mastery of big capital. This, as I see it, is the essential factor in

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the struggle which is now going on in the countries of Europe and also less definitely in America. It is the new dynamic factor which is reshaping the course of the historic process today.

What is the basis for the claim of the middle classes to economic leadership? It is largely and mainly their presumed capacity to serve as the reconcilers of conflicting interests and groups. As against the class struggle of the Marxians, as against the competitive conflicts of capitalism, the spokesmen of the middle classes offer to build up a new social system based upon an organic solidarity in which group inequalities and group interests are happily merged in a higher national purpose. This system is presumably to be a synthesis of the three main developments of modern times—nationality, functional economics, and social welfare—as formulated in their philosophy, which posits the group as the unit of society, regards all occupational activities as an equivalent performance of duty to the state, and extols the state as the reconciler of all group interests.

Herein lies the difference between the proletarian movements of the workers and the new movements of the middle classes. The former emphasize the immediate necessity of class struggle, with the idea of abolishing all classes in the future and of establishing a classless society. The proletarian movements are for a dictatorship and for using the full power of the state now, giving us the promise of a final withering away of the state in the distant future. On the other hand, the spokesmen of the middle classes see in economic groups and social classes a constant element of social life which need not be done away with, and which can serve as a basis for a new state structure.

It is because of this attitude towards social classes and economic reconstruction that the leaders of the new movements are so passionately engrossed in the making of a new state myth. Fundamentally, all their theories hark back to the doctrines which emphasize the supreme value of a powerful national state. The divergence between Italian Fascism and German nationalism is an accident which may disappear in the near future. Italian Fascism sees the state as identical with the nation, evolved historically, regardless of any anthropological or racial antecedents. The German theorists are trying to rebuild the theory of the state upon a doctrine of racial purity, which is anthropologically absurd and historically unsound, and which has its justification only in the temporary

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psychopathic state of mind of a people harassed and embittered by fifteen years of post-war diplomacy. But the essential element in both these state theories is the same—emphasis on national solidarity and national power, and in this respect the doctrines run back to older German political theorists as well as to Machiavelli. We in America are particularly free from such dialectics, our theorizing being largely concerned with the relation of government to the control of industry.

The other main ideas in the new theories of the state, which we too are inclined to favor, are, first, functional economic groups as the basis of political organization, and second, social welfare as the purpose of the state. It is the combination of these latter two ideas with the recognition that under modern complex economic conditions the state must take the lead in working out economic programs and new social patterns that brings forth the concept of the planning state. One of the main political trends of the past half-century has been the transformation of the police, or what Lassalle called the "night watchman," state into the social service state. The transformation which is proceeding now may be regarded as a continuation of that process, though far more thoroughgoing. For in its effort to assume an active, even a leading, part in economic life, the planning state must tend to be regulative in method, experimental in attitude, and reconstructive in purpose. That it is tending to be such is clear from even a cursory examination of what is happening today in Western Europe and in America.

It is obvious that as a result of these tendencies, the evolving planning state must be very different from the liberal state of the nineteenth century. To begin with, it is different in scope. The liberal state of the nineteenth century was concerned mainly with the maintenance of law and order and with national defense. Its economic activities were limited and small. Even when it began to assume some of the functions of social service, it proceeded deliberately and slowly in order not too greatly to disturb basic industrial relations. It could thus maintain a certain calm rationality, a high respect for legal and constitutional forms, and have patience with the methods of parliamentary procedure, which quite often were wasteful.

The planning state, on the contrary, is concerned primarily with economic and social matters. Because of that, it must make

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decisions quickly, and act even more quickly. Its desire to maintain national unity above everything else and to develop national resources makes it eager to prevent strife and ruthless with regard to individual and minority expression. In brief, as it is being developed in Europe, the planning state places national ends above individual and group interests, balanced order above abstract liberty, invention above tradition, and practical necessities above constitutional guarantees. And because of these characteristics, the new state tends to be executive in form, administrative rather than parliamentary, and indifferent to the division of powers honored since the days of Montesquieu. It also tends to develop a whole series of mixed politico-economic forms—governmental proprietary corporations—which tie the state into the economic structure of the country.

The new state involves also a change in the relation of the political party to government. In the thinking of the nationalistic state planners, the party is not the expression of class or group interests, nor a special instrument in the hands of professionals who make politics their main business in life. It is a select minority of men and women who have appointed themselves guides of national destiny and the exclusive exponents of national creeds and ideals, and who claim the monopolistic privilege of exercising political power.

All, I think, will agree that the new social movements which I have been describing raise many disturbing issues and grave doubts They are certainly not reassuring in their attitudes toward some of our permanent human values. They are too impatient with the idea of freedom and personality. Being intent upon the development of the group and upon the coördination of group relations, they seem to regard the individual as merely a summation of the group relations in which he participates. This results in a disregard for those opportunities and immunities which we have long associated with the idea of individuality, and which demand more careful consideration than they are being given. There is also the danger of bureaucratic arrogance and administrative arbitrariness.

But, above all, there is the fundamental question of the capacity of the middle classes to build up a new equilibrium with proper regard for the interests of the masses of the people. This question arises from the peculiar characteristics of the middle classes due to their intermediate position between big business and the workers. The middle classes contain many indeterminate and weak ele-

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ments whose economic position has always been more or less precarious and dependent, and who have neither courage, capacity, nor the experience to control and direct the complex industrial machine of today.

There seem to be two alternatives in the situation. Either the middle classes must allow the industrialists to continue to operate industry or they must take over the industries themselves and operate them under new forms of social management. It is a curious commentary on the character of the middle classes throughout the Western world that this second alternative does not seem to make the appeal to them that might have been expected. For undoubtedly under a régime of collective management and operation the various middle-class groups would become the dominant economic element in the state and would exercise unprecedented power. It cannot be said that for the first time in history we have a group that refuses or does not wish to hold economic power. What seems to be the explanation is that the new middle classes are conscious of the extreme difficulties of economic guidance which have been demonstrated by the experience of post-war Europe and Soviet Russia. It is clear to them that any attempt to force the industrialists out of power means a social struggle of such profound and violent character as to jeopardize their entire enterprise.

As a result, there is a tendency on the part of the middle-class insurgents to reconcile the large industrialists and to keep the working classes in line. This is illustrated by the history of Fascism in Italy and by developments in Hitlerite Germany. The economic reconstruction of the corporative and totalitarian states has not dislodged the power of the industrial and financial groups, nor has it enhanced the bargaining position of the large masses of workers. On the contrary, the tendency is to shift the balance of groups in such a way as to make the masses of the people more dependent on the intervention of the new state for power to deal with the owners and directors of industry. If this tendency continues, Fascism, Hitlerism, and other forms of middle-class economic nationalism will become an alliance between big business, which will keep economic power, and the middle classes, which will become the monopolists of political position and power. Under such conditions, it is hard to see how the middle class movement will be able to bring about its ideal of a balanced state.

The intermediate position of the middle classes gives rise to

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another serious obstacle in the way of economic reconstruction. Many groups within the middle classes, such as shopkeepers, artisans, and small business people, are intent upon maintaining the economic basis of their status. But this can be accomplished largely, if not entirely, by breaking up to a considerable degree the mass character of modern industry and by blocking the further march of the machine. In some measure, this might be desirable. But carried beyond reasonable limits, it might mean the undermining of the foundations of material welfare. It is already a source of much confusion in the economic programs of the nationalistic planners in Germany and elsewhere, who are trying in vain to balance the monopolistic propensities of big industry, the collectivist ideas of working-class groups, with middle-class strivings for independent but governmentally protected small economic enterprise.

If these difficulties in the way of economic reconstruction are not overcome, the new planning states will have to use more and more force in holding power. It would mean also more devices for diverting attention from real economic and social needs to artificially stimulated tasks. It would mean, further, the accentuation of the excrescences of nationalistic ballyhoo, racial extravagance, and militaristic fanfare.

The middle-class nationalists must thus make up their minds as to which way they are going, and with whom. For if they decide to throw more weight upon the side of the working population, they must drive deeper into the control of industry and the methods of regulating the distribution of the national income. That would mean an increase in governmental planning, which in turn would call for the building up of a new class of civil servants capable of developing a deep sense of professionalism, of completely identifying themselves with the national interest, and of acquiring expertness in industrial management and public administration.

In the foregoing analysis, I have had in mind some of the common elements in all of the new movements toward a planning state, but my thought has been largely on the countries of Western Europe. There are basic differences between the New Deal in America and the social movements of Western Europe. The peculiar features of our New Deal are its greater flexibility, its spirit of tolerance, its respect for individual and group rights, and the effort at voluntary action. The reasons for these features are the

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vague demarcations between economic groups and classes which have been the foundation of our democratic traditions, the faith in the dynamic possibilities of our industries, the survival of frontier mental attitudes, the large sectional differences, and our easy-going attitude towards social doctrines and theories.

The question is: Will these special American characteristics continue? One cannot close one's eyes to the fact that some of the processes and mechanisms of the New Deal tend to draw the lines more sharply between groups and classes. There is danger that the New Deal may be used by special interests for their exclusive benefit.

However, for the time being we are still moving in an atmosphere of indefinite groupings, of blurred party lines, and of an intellectual alignment which runs from "modern Tories" to "young liberals." Government functions under the New Deal are exercised in considerable measure by groups of technicians with a large social outlook bent on achieving what President Roosevelt has called a "true concert of interests." We may regard ourselves as fortunate that this is so, and that we can proceed in the free and flexible manner in which we have proceeded. We can go on applying executive and administrative forms of government without violating constitutional forms and congressional procedures. We can allow the continuation of the party system without jeopardizing the program of reconstruction. We can form and reform our political lines without much concern about their economic and social backgrounds.

If we succeed in keeping our special characteristics, we may blaze another new trail in history. We shall then succeed in creating a composite leadership which, to use Lincoln's term, will become one with the "plain people." This is one of the major social questions ahead of us: Can the "plain people" of America, with the aid of socially-minded experts and leaders, build up planfully and peacefully a new economic and political equilibrium based not upon concepts of totalitarianism or corporatism, but on broad and flexible principles which aim to reconcile pragmatically popular control with governmental leadership, individual efficiency with group responsibility, economic security with orderly change, and social solidarity with a realistic freedom? Upon the answer to this question depends the nature of the planning state toward which we ourselves seem to be on the way.

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POWERS AND FUNCTIONS OF THE JAPANESE DIET, II*

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VI. FINANCIAL POWERS: SUPPLY

The principle of "no taxation without representation," so dearly prized in European constitutional systems, finds its counterpart in the Japanese régime. In the ornate language of Prince Ito: "It is one of the most beautiful features of constitutional government and a direct safeguard to the happiness of the subjects that the consent of the Diet is required for the imposition of a new tax and that such matters are not left to the arbitrary action of the Government."[37] The enactment of this rule, so far as the Japanese constitution is concerned, is found in Article LXII, which reads:

> The imposition of a new tax or the modification of the rates [of an existing one] shall be determined by law. However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause. The raising of national loans with the contracting of other liabilities to the charge of the national treasury, except those that are provided in the budget, shall require the consent of the Imperial Diet.

In their commentaries on this article, the jurists of the new school emphasize the requirement of the consent (*kyosan*) of the Diet for taxation, while the jurists of the old school emphasize the duty of the subject to submit to taxation. Minobe says: "The tenet that taxation must be levied only with the participation and consent of the Diet, and not through the arbitrary will of the ministry, is a corollary of the principle of government by law."[38] On the other hand, Hozumi declares: "The Japanese constitution does not admit the doctrine that national expenditure is dependent upon the freely granted contribution of citizens. The constitution clearly shows that citizens have a duty to submit to taxation as well as to conscription. Taxation is the result of law and not of the consent of the Diet rendered from year to year."[39] Thus, according to Hozumi, it is the Government that determines the income and expenditure for the year. And, if the Government neglects to prepare the financial measures, the Diet itself has no power to prepare and vote them.

* The first instalment of this article appeared in the December issue.

[37] *Commentaries* (1889), pp. 113–114.

[38] *Kempo Seigi* (1931), p. 621.

[39] *Kempo Teiyo* (1910), pp. 873–874.

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Taxation is indeed, in Japan, the result of law. A certain permanency attaches to the vote of taxes—a permanency that is foreign to Anglo-Saxon systems. A yearly settlement of tax rates is not required. Most jurists agree that the *kyosan* of the Diet, when voting for a tax levy, is not to be considered as a consent limited to one year's duration. The requirement of annual consent of parliament to taxation as found in England has no place in the constitution of 1889. Thus a tax once voted assumes an indefinite existence. This feature of public finance in Japan will again engage our attention when we investigate budgetary procedure.

The exemption of "administrative fees or other revenue having the nature of compensation" from the general principle of parliamentary consent to taxation was the deliberate decision of the statesmen of the Meiji era. As Prince Ito well said, administrative fees having the nature of compensation, and being collected from persons in return for special services rendered to them by the government at their request or for their benefit, are in their nature far different from taxes which are imposed as a common duty to be discharged by all inhabitants.[40] In a country where state socialism was being so rapidly developed as in Japan, where the government was already engaged in operating railways and steamship lines, post offices and telegraphs, and many other public utilities—in such a country there was grave political danger in giving into the hands of the national legislature the control of the rates charged by public monopolies.

Two classes of fees are generally recognized as exempt from the requirement of consent by the Diet.[41] The first includes all payments which depend upon the will of the payee because contracted by his voluntary use of the special services provided by the state, such as railways, the post office, telegraphs, and telephones. The second category includes payments required in return for the exercise on behalf of the payee of powers constitutionally administered by ordinance. This group includes fees for passports, police permits, and civil service examinations.

The constitutional issue over administrative fees was raised at an early date. What is an administrative fee? Does the Diet or the Government have the right of definition? In 1892, the home office promulgated an ordinance revising the regulations regarding

[40] *Commentaries* (1889), p. 114.

[41] Compare Minobe, *Kempo Seigi* (1931), pp. 630–637.

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the hunting of game and imposed a new license fee. The House of Representatives objected to the ordinance as levying a tax without the Diet's consent.[42] The Government replied that it was an administrative fee. Thereupon the House passed a bill of identical content in order to force the constitutional question.[43] In sympathy with the bureaucratic tendencies of the Government, the House of Peers refused to concur in the bill. Two years later, the Peers changed their mind and passed a similar measure.[44] Victory thus fell to the Diet. But it was a barren victory. The definition applied to administrative fees has always been liberal, with the result that today almost a third of the ordinary revenue comes under this head, and consequently is beyond the control of the Diet.

VII. FINANCIAL POWERS: THE BUDGET

Long before the Restoration in Japan, European states had developed the budget as an admirable instrument of public finance. The Meiji statesmen learned much from a study of the models of Germany, England, and France. In its main outlines, the Japanese budget follows its European prototypes. Accordingly, the constitution provides:

Article LXIV. The expenditure and revenue of the state require the consent of the Imperial Diet by means of an annual budget. Any and all expenditures overpassing the appropriations set forth in the titles and paragraphs of the budget, or that are not provided for in the budget, shall subsequently require the approbation of the Imperial Diet.

Article LXV. The budget shall be first laid before the House of Representatives.

The budget is drafted by the minister of finance in consultation with his colleagues in much the same way as the budget is prepared in Germany and England. Rules governing the procedure and form of drafting are prescribed in the *Kaikeiho*, or Law of Finance.[45]

[42] The resolution taking exception to Imperial Ordinance No. 84 of 1892 was passed in the House of Representatives on December 13, 1892, by a vote of 174 to 73. *Dai Nippon Teikoku Gikai-shi*, Vol. II, p. 524. Compare Takeshige Kudo, *Teikoku Gikai-shi*, or "History of the Imperial Diet" (Tokyo, 1901–1903), Vol. I, pp. 242–244.

[43] *Dai Nippon Teikoku Gikai-shi*, Vol. II, p. 947 (Feb. 18, 1893).

[44] The first bill was rejected in the House of Peers in 1893 by a vote of 89 to 88. In 1895, an identical bill secured a passing vote. *Ibid.*, Vol. III, pp. 196, 756 (Feb. 22, 1895).

[45] *Genko Horei Shuran* (1927), Vol. II, bk. xii, pp. 1–2. Upon procedure in budget-making, see R. Uchiike and Y. Sakamoto, "Budget System of Japan," in *Municipal Research* (New York), March, 1927, No. 83, pp. 1–44. The fiscal year in Japan begins on April 1.

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In some countries, the budget is treated as a law. Not so in Japan. In the terms of Prince Ito, "the budget is a sort of gauge to be observed by the administrative officials for a current year."[46] Thus, in voting a budget, the Diet exercises a supervisory power over the administration, and not a legislative power. This is a matter of profound importance. The statesmen of the Meiji era imported the German rule that the budget is subordinate to law, that it is only a *Verordnung*, an ordinance or administrative program for the year, rather than a *Gesetz*. Thus, while a law is the common will of the executive and the legislature, and while it cannot be altered by the single will of the executive, the expenditures required for the execution of laws are not subject to the action of the legislative body.[47] In accordance with this principle, Article LXVII of the Japanese constitution provides among other things that expenditures arising from the effect of law or from the legal obligations of the Government cannot be reduced or rejected by the Diet without the concurrence of the Government.

As in all bicameral legislatures, the budget is first introduced in the House of Representatives—the branch closest to the people.[48] At the same time, the ministry of finance furnishes every member of both houses with a copy of what is called the *Teikoku Yosan Koyo*, or "Synopsis of the Imperial Budget." In either house, when the budget is under consideration, it is immediately referred to the budget committee, while sub-committees take up the various sections. Ministers and bureau chiefs attend the meetings. Interpellations are numerous. Under the rules of both houses, the budget must be reported by the committee within twenty-one days. In the committees, the budget is considered section by section and finally voted upon *in toto*. In the houses, for lack of time, the consideration of sections is often abridged. The practice of considering the budget by sections is criticized by Hozumi as uncon-

[46] *Commentaries* (1889), p. 121.

[47] Hozumi, *Kempo Teiyo* (1910), Vol. II, pp. 502–509; Uyesugi, *Kempo Jutsugi* (1927), pp. 537–541; Minobe, *Kempo Seigi* (1931), pp. 680–685, and his *Kempo Satsuyo* (1932), pp. 595–598.

[48] Constitution, Art. LXV, and *Giin-ho*, or Law of the Houses, Art. LIII. See also the *Kizoku-in Teirei*, or Standing Orders of the House of Peers, ch. v, and the *Shugi-in Teirei*, or Standing Orders of the House of Representatives, ch. vi. An English translation of the Standing Orders of both chambers as existing in the year 1905 is found in *A Guide to the Imperial Japanese Diet* (Compiled by Kinroku Fuji; published by the Eikoku Shogyo Zasshi Sha, or British Commercial Magazine Office, Tokyo, 1905).

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stitutional, while Minobe, who consistently defends practices that make for parliamentary control, finds authorization for this procedure in the reference to "titles and paragraphs" in Article LXIV.[49]

Save for the constitutional right of the lower house to receive the budget first, the two chambers have equal financial powers. Well aware of the superiority of the British House of Commons to the House of Lords, parties in the Japanese popular house have attempted to assert a similar ascendency. In 1892, when the House of Peers restored in the budget an item for an earthquake investigation bureau which the House of Representatives had striken out, the lower house refused to receive the amended budget for consideration.[50] At this *impasse*, the Peers voted an address to the Throne for an interpretation of the constitution, and, upon the advice of the Privy Council, the Emperor issued an edict pronouncing the two houses co-equal in power in all matters of legislation and supervision.[51] Thus, there is now no question as to the constitutional authority of the upper chamber to amend the budget or any money bill—a situation not viewed with equanimity by many liberals and radicals, who do not hesitate to offer proposals for constitutional reforms reducing the rôle of the Peers to that of the British upper chamber.

The rejection of the budget by the Diet is branded as unconstitutional by Hozumi and the jurists of the old school who seek to minimize the parliamentary character of the national legislature.[52] But even the House of Peers, the constant supporter of bureaucratic government, has not hesitated to reject the budget of a cabinet which it dislikes. The first occasion, in 1901, was the result more of the Peers' condemnation of Prince Ito (who had made a startling venture in politics by organizing the Seiyukai as a new party in the House) than of any disagreement over items in the budget.[53] To the consternation of the Peers, an imperial rescript was issued requesting their assent to the budget.[54] Consent was

[49] Hozumi, *Kempo Teiyo* (1910), Vol. II, pp. 521–522; Minobe, *Kempo Seigi* (1931), p. 658.

[50] *Dai Nippon Teikoku Gikai-shi*, Vol. I, pp. 2185 (June 10, 1892). Compare Kudo, *Teikoku Gikai-shi* (1901–1903), Vol. I, pp. 152–158.

[51] *Dai Nippon Teikoku Gikai-shi*, Vol. I, pp. 1743–1750 (June 11–13, 1892).

[52] Hozumi, *Kempo Teiyo* (1910), Vol. II, p. 223.

[53] *Dai Nippon Teikoku Gikai-shi*, Vol. V, p. 861.

[54] *Dai Nippon Teikoku Gikai-shi*, Vol. V, p. 877 (March 13, 1901). See also Kudo, *Teikoku Gikai-shi* (1901–1903), Vol. II, pp. 101–103.

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thereupon given, although the Peers expressed their dissatisfaction with Ito by passing *nemine contradicente* all Government bills during the remainder of the session.

Amendments unacceptable to the Government may be as fatal to the budget as total rejection. The amendments of the House of Representatives in 1893 reducing ordinary expenditures by five million yen and eliminating an item of 3,330,000 yen for battleships from extraordinary expenditures was treated by the Government as a rejection, and led the Ito ministry to resort to the well known rescript of February 10, wherein the Emperor offered a contribution of ten per cent from the civil list for six years toward the naval fund and enjoined the Diet and the cabinet to work together in harmony.[55] In 1914, after the exposé of the shipbuilding scandals, the reduction of the naval appropriations by 30 million yen in the House of Representatives and by 70 million in the House of Peers had the effect of a rejection of the budget, and, despite the prorogation of the House, contributed to the fall of the Yamamoto cabinet.[56]

Sometimes the houses have conditionally accepted items in the budget. For instance, in 1928, the House of Peers, in approving the supplementary budget for 1928-29, attached an expression of opinion to the appropriation for the Shantung expedition which read:

> Notwithstanding the fact that a military force was sent for the purpose of protecting the Japanese residents in Shantung, there have occurred murders and looting at Tsinan, of which Japanese residents were victims. This is profoundly regrettable. In giving consent to the appropriation for the Shantung expedition, the House of Peers expresses definitely the hope that the Government will not fail in the future to render adequate protection to the Japanese residents.[57]

Such conditions have, of course, more of the nature of a *representation* than of a binding condition upon the use of the appropriation.

The Diet's control of the budget is limited by a surprisingly extensive list of items exempt from legislative supervision. Some of these excepted items are indicated as follows:

[55] *Dai Nippon Teikoku Gikai-shi*, Vol. II, pp. 590–591, 746–758 (Dec. 19, 1892, and Feb. 10, 1893). For Ito's part in this episode, Kudo heaps fiery words of condemnation on the premier. See his *Meiji Kensei-shi*, or "History of Constitutional Government in the Meiji Era" (Tokyo, 1914–1922), Vol. I, pp. 420–421.

[56] *Dai Nippon Teikoku Gikai-shi*, Vol. IX, pp. 104–129, 210–212 (March 13 and 23, 1914).

[57] *Kwampo gogai*, May 7, 1928, p. 614.

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Article LXVI. The expenditures of the Imperial House shall be defrayed every year out of the national treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

Article LXVII. Those already fixed expenditures based by the constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the Government, shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government.

The first category comprises the *koshitsu-hi*, or imperial civil list. Neither the Diet nor the Government may propose to reduce the expenditures for the Imperial Household as fixed when the constitution was promulgated.[58] Any increase, however, entails the consent of the Diet, inasmuch as taxation may be necessary. In 1910, the imperial civil list, which for years had been fixed at three million yen yearly, was increased with the approval of the Diet to four and a half million yen. Almost unbounded loyalty to the Throne would probably lead to the approval of still larger increases if requested. But the imperial family has an ample income from vast estates, and shrewd politics dictates the placing of no undue strain upon the popularity of the Throne. The officials of the Imperial Household make no accounting of the civil list to the Diet. The item is carried in the budget for the purpose of presenting a complete picture of national finance.

The second category of excepted items includes "those already fixed expenditures based by the constitution upon the powers appertaining to the Emperor." Such expenditures, as Prince Ito pointed out, embrace all appropriations depending upon the prerogative of the Emperor as set forth in chapter one of the constitution, to wit: ordinary expenditures required by various branches of the administration, the army and navy, the salaries of all civil and military officers, and expenditures required for the execution of treaties. Under this rule, based upon the German practice regarding funds once established, the Diet is powerless to withdraw appropriations once voted for the administration of any ministry.[59] The underlying theory is that the Diet cannot suspend or repeal existing laws simply by a refusal to vote the monies

[58] Compare Shimizu, *Kempo Hen* (1923), p. 334; Ichimura, *Teikoku Kempo Ron* (1926), p. 946.

[59] Concerning the German theory of obligatory expenditures, see Paul Laband, *Das Staatsrecht des deutschen Reiches* (4th ed., Tübingen, 1901) Vol. IV, pp. 489–490.

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required for their execution. On the other hand, the Diet is not restrained, as Prince Ito admitted, from deliberating upon appropriations required by new ordinances even though based upon the Emperor's prerogative. Thus, appropriations for a newly created ministry or for increase of salaries of administrative officers may be disapproved, but once the Diet has given its consent to these items, it can never reduce or reject them without the assent of the executive.[60]

The third category involves "such expenditures as may have arisen by the effect of law." Here again the German rule of the superiority of law over the budget prevails, giving these expenditures a permanent character. Items in this category include pensions, prisons, tax-collections, and the expenses of judicial courts and the Board of Audit. They are somewhat similar to the items of the second group, but they have their foundation in statutes rather than administrative ordinances.[61] The fourth category includes expenditures relating to the legal obligations of the government, including interest on the national debt, redemption of the debt, subsidies to companies, civil obligations of the government, and funds to maintain Shinto temples.

Continuing expenditures form a considerable part of the budget. While the expenses of the state are ordinarily voted annually, sound finance may dictate resort to a long-time financial program, particularly in connection with the building of fortifications and battleships, engineering projects, and all kinds of public works that require several years for completion. Under Article LXVIII, the Government may ask the consent of the Diet for the amounts to be paid into a Continuing Expenditure Fund for a fixed number of years. Again, the statesmen who drafted the constitution assumed that no budgetary officer ever made a perfect budget, much less a legislature. Errors and unforeseen requirements are inevitable. Hence, by virtue of Article LXIX, the Government is entitled to a Reserve Fund in order to meet unavoidable deficiencies.

At what stage of the budgetary procedure should the houses seek the consent of the Government to an amendment of any of

[60] Compare Minobe, *Kempo Seigi* (1931), pp. 642–676; Shimizu, *Kempo Hen* (1923), pp. 1412–1416.

[61] Compare Uyesugi, *Kempo Jutsugi* (1927), p. 555; Shimizu, *Kempo Hen* (1923), pp. 1414–1415.

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the reserved items? The question is difficult to answer, in view of the fact that the Diet does not actually act as a single body. The present practice is for each house independently through its president to request the Government's approval of such amendments prior to the final vote.[62]

VIII. EMERGENCY FINANCIAL ORDINANCES

In time of national peril, when the Diet cannot be assembled, the Government has power to employ an extraordinary device, namely the *zaisei-teki kinkyu meirei*, or emergency financial ordinance. This is the counterpart of the emergency ordinance defined in the eighth article of the constitution. As to the emergency financial ordinance, the fundamental law provides:

> Article LXX. When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the Government may take all necessary financial measures, by means of an imperial ordinance. In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

The emergency financial ordinance does not escape the Japanese distinction between law and the budget. The ordinance defined in Article VIII determines *hoki*, or rules, and takes the place of law. But the ordinance defined in Article LXX is only an order to take measures (*shobun*).[63] The one sets up a rule, the other, a program. The *kinkyu meirei* becomes inoperative in case of parliamentary disapproval, whereas it is generally conceded that parliamentary disapproval has no effect upon the measures taken under the *zaisei-teki kinkyu meirei*.

The *zaisei-teki kinkyu meirei* has seldom been employed, for rare indeed is the occasion when with truth it can be said that the convoking of the Diet is an impossibility. The earthquake of 1923 brought a situation of this kind, and the cabinet immediately resorted to an emergency financial ordinance. Less convincing, however, was the assertion of the Wakatsuki ministry in 1927 that the

[62] For criticisms of this procedure, see Shimizu, *Kempo Hen* (1923), pp. 1421–1422. Compare the debate in the House of Peers in 1891, in the *Dai Nippon Teikoku Gikai-shi*, Vol. I, pp. 326–330. For an English translation of a resolution relating to procedure introduced in the Peers, see *Japan Weekly Mail*, March 7, 1891, pp. 279–280.

[63] Compare Shimizu, *Kempo Hen* (1923), pp. 1286–1288; Minobe, *Kempo Satsuyo* (1923), pp. 522–523.

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Diet could not be convoked in time to save the Bank of Formosa from closing its doors. The Privy Council, to whom emergency financial ordinances must be submitted before their issuance, has maintained an attitude of strict interpretation of the constitution, and has consistently obstructed the development of a procedure that would add to the restrictions upon the Diet.

Returning to the general subject of public finance, we have still to consider the governmental crisis brought about by a rejection of the budget. As we have already noticed, all items in the three categories established by Article LXVII are beyond the power of the Diet to reduce or reject except with the consent of the executive. The theory supporting this exemption is that inasmuch as the Emperor exerts his prérogative in certain fields without the assent of the legislative will, the legislature must not be permitted to defeat the executive will by withholding supply. But even so, the Diet may withhold sufficient supply seriously to embarrass the Government. In this event, the constitution provides that resort can be had to the famous maneuver employed by Bismarck in 1862-63 against the Prussian Landtag. Article LXXI reads:

> When the Imperial Diet has not voted on the budget, or when the budget has not been brought into actual existence, the Government shall carry out the budget of the preceding year.[64]

Such is the Japanese answer to the *impasse* which results when the Diet has not consented to the budget before the session ends or the new fiscal year begins. It also serves as one of the formidable obstacles to any parliamentary development along English lines, for it allows the cabinet to remain in office despite the defeat of its budget in the popular house.

The conditions wherein the budget is "not brought into actual existence" include: (1) if the Diet rejects the budget, or if the votes of the houses regarding the budget do not correspond, or if the consent of the Government is not obtained as to reserved items that are reduced or rejected; (2) if the House of Representatives is dissolved while the budget is still pending; and (3) if the Emperor does not give his sanction.[65] Under this régime, the cabinet is barred from applying an appropriation for any purpose other

[64] Concerning the origin of this article, see Ito, *Commentaries* (1889), pp. 135–136; Minobe, *Kempo Seigi* (1931), pp. 707–709.

[65] Uyesugi, *Kempo Jutsugi* (1927), p. 545; Shimizu, *Kempo Hen* (1923), pp. 1416–1418.

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than that prescribed in the budget. The most common occasion for reverting to the previous budget under Article LXXI is that afforded by a premature dissolution or adjournment of the House of Representatives. Shortly after such an event, the finance minister lays before the cabinet a financial plan for the coming year; and although cabinet meetings are secret, the press is able to publish rather accurate details of the Government's financial plans.[66] In European systems, failure to secure the adoption of the budget is a catastrophe. But in Japan, ministers are not appalled at the prospect of carrying on the administration with an old budget. At least, legislative interference is in abeyance, or if an extra session is summoned, a supplementary budget will provide for the new expenditures.

IX. THE POWER OF AUDIT

The budget is the beginning of the financial business of the year; the accounts are the conclusion. Over both sides of this business, as Prince Ito has said, the Diet can exercise a measure of control, first by giving or withholding consent to the budget for the coming fiscal year and second by verifying the accounts of the past year. Hence, according to Article LXXII of the constitution, the expenditures and revenues of the state are verified by a Board of Audit. Its report is submitted to the two houses, and is referred to standing committees.[67] Ministers may be called to make explanations. Undoubtedly this parliamentary review promotes a greater sense of responsibility on the part of the cabinet, but there is lacking any means of enforcing such responsibility in case the Diet finds serious errors and refuses to approve the accounts.[68] The Government may be quizzed by interpellations and admonished in representations, and even a vote of censure may be passed. But, in want of ministerial responsibility, such efforts are merely gestures. Hence, the approval of the accounts tends to remain a perfunctory performance occurring in the closing hours of the session.

[66] For instance, see accounts published in the *Tokyo Asahi* and the *Osaka Mainichi* for January 24 and 25, 1930, following the dissolution of the Diet by decision of Premier Hamaguchi.

[67] Standing Orders of the House of Peers, ch. ii; Standing Orders of the House of Representatives, ch. ii. Chapter V of the *Kaikeiho*, or Law of Finance, prescribes the form of the report by the Board of Audit. *Genko Horei Shuran* (1927), Vol. II, bk. xii, pp. 1–3. For an English translation of the text of the *Kaikeiho* as promulgated in 1889, see Ito, *Commentaries* (1889), pp. 247–259.

[68] Compare Hozumi, *Kempo Teiyo* (1910), Vol. II, pp. 908–910; Minobe, *Kempo Seigi* (1931), pp. 717–719; Uyesugi, *Kempo Jutsugi* (1927), p. 470.

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X. SUPERVISION OF ADMINISTRATION

Despite the efforts of the old school of constitutional doctrine to disparage the power of the Diet to supervise administration, there seems to be no question that the framers of the constitution gave a high place to this function. Prince Ito plainly states: "The Diet not only has its part in legislation, but indirectly it has also the responsibility of keeping a supervision over the administration." He particularly notes that this supervision is expressed in the Diet's "right to control the management of the finances."[69]

Thus, the new school swings back to original theory. Stated in the words of Minobe, this doctrine takes the following form:

> The Diet is not merely an organ to give consent to legislation. It also participates in administration, and particularly has power to supervise the actions of the ministers of state. The sphere of governmental affairs in which the Diet can participate is identical with the competence of the ministers. Be it in legislation, or be it in administration, the Diet has authority to participate as long as the matter pertains to ministerial duties. The only difference between its legislative and supervisory functions is that in the performance of the former the Diet has the power to give consent, while in the performance of the latter it lacks power to give consent —but is enabled to participate in other ways.[70]

It is obvious that such a view of the functions of the Diet tends to exalt the legislature as the constitutional instrument for the expression of public opinion in political affairs. The Diet thus serves as the forum where government is carried on openly and not in secret chambers. It is true that the newspapers are important means for criticism of the executive. But the legislature, because of its constitutional basis and representative character, can do things that the press cannot accomplish. In other words, the Diet is the only representative organ that can criticize the administration, appraise it, demand explanations, request reports, and give a vote of censure. Again, the Diet serves even as a directing force to the executive. It is true that it lags far behind the parliament of Great Britain and the legislature in other countries that are copies of the "model of parliaments." But since Japanese cabinets find it difficult to govern without the coöperation of a majority in both houses, the ministers are forced to make concessions to the

[69] *Commentaries* (1889), p. 62.

[70] Minobe, *Kempo Seigi* (1931), pp. 423–424. Compare Ichimura, *Teikoku Kempo Ron* (1926), pp. 895–899; Sakuzo Yoshino, *Gendai Kensei no Unyo*, or "Studies in Recent Parliamentary Government" (Tokyo, 1930) ch. iv.

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demands of the legislators and thus to submit, in some degree at least, to the supervision of the Diet.

The constitutional means whereby the legislative supervision of administration is effected include: (1) petitions, (2) representations, (3) interpellations, (4) addresses to the Emperor, (5) votes of censure, and (6) votes on the budget.

The right of the people to petition is recognized in the bill of rights in the constitution.[71] This is an ancient privilege. In the reign of Emperor Kotoku (645-654 A.D.), according to the old chronicles, a bell and a box were hung before the imperial palace, through which the people might make known their grievances. Today, petitions may be made to the Emperor, to the ministers, and to the Diet. Article L of the constitution specifically provides that both houses have power to receive petitions presented by Japanese citizens. Petitions, or *seigan*, must be presented through the medium of a member.[72] Rigid rules require that these papers must be in the form of a prayer, that they contain no words of disrespect toward the Imperial Household or of insult to the Government or the Diet; and neither house shall receive petitions for amending the constitution. In either house all petitions are referred to the committee on petitions, which reports to the house once a week. On the proposal of this committee, or of thirty members of the chamber, the house may debate the subject of any petition. When either house votes to entertain a petition, it is sent to the Government together with the memorial of the house thereon. The house may even demand a report by the Government. Neither chamber has any positive obligation to take petitions into consideration, nor has the cabinet an obligation to grant the prayer set forth.

In actual practice, petitions do not constitute a weighty instrument for control of the cabinet. Many of them contain trite or impractical proposals. In perfunctory fashion, members present to the clerk the handful of *seigan* that importunate constituents have thrust upon them. The committee on petitions conscientiously studies all proposals and grievances; but time presses, and there

[71] Article XXX. On this subject, compare Hisatsuna Furuya, *Système représentatif au Japon* (Brussels, 1899), pp. 163–167.

[72] The procedure is laid down in chapter xiii of the *Giin-ho*, or Law of the Houses, and in Standing Orders of the House of Peers, ch. viii, and Standing Orders of the House of Representatives, ch. x.

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is a tendency to postpone the committee reports until the end of the session, when a large batch of petitions are hurriedly adopted without serious consideration. For instance, in the closing hours of the Fifty-ninth Diet, after the usual report of the chairman of the committee, the House of Representatives voted without debate to accept 294 petitions.[73]

Representations, or *kengi*, are another, and not much more effective, instrument of control over the executive. Authorized by Article XL of the constitution, *kengi* are formal expressions of legislative opinion addressed to the Government. Under Article LII of the *Giin-ho*, no representation in either house can be made a subject for debate unless thirty members support it. If not accepted by the Government, it cannot be offered a second time during the same session. From the writings of Prince Ito we learn that the framers of the constitution intended *kengi* to be a means for promoting both legislation and supervision of administration. As to legislation, the chambers as well as the Government possess the authority to initiate projects of law. But the ministries have the advantage of skillful drafting clerks, and besides this, a ministry is not hampered with the need for reconciling several hundred conflicting views when engaged in drawing up a bill. Thus, Prince Ito supposed it would prove more expeditious for the legislature in many cases to make a general expression of opinion upon a legislative matter and leave to the executive the task of drafting the proper bill. As to supervision of the executive, there is no question that the framers of the constitution intended representations to be used by the Diet in "keeping a watch upon the administration."[74]

This procedure—a well known feature of French parliamentary practice—was expected to compensate for the sleeveless errand of private members' bills. But even *kengi* are wanting in effectiveness because of their large number and because of lack of time, particularly in the lower house, to consider them. On one afternoon in the lower house in the fifty-second session, 121 representations

[73] *Kwampo gogai*, March 26, 1931, pp. 956–961. In this session, 29 *seigan* were adopted and sent directly to the Government, 547 were adopted and sent up to the House of Peers, and 1013 were treated as adopted. *Ibid.*, pp. 778–817, 956–961, 963–968, 1014.

[74] Ito, *Commentaries* (1889), p. 73. Compare Hozumi, *Kempo Teiyo* (1910), Vol. II, p. 485; Uyesugi, *Kempo Jutsugi* (1927), p. 472; Minobe, *Kempo Seigi* (1931), pp. 465–466.

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were introduced and referred to committees, and in the closing hours of this session, 85 *kengi* were reported from the various committees and adopted.[75] In the fifty-ninth session (January-March, 1931), 265 representations were voted.[76] If the Government fails to accept the representations of the houses, there is no procedure for compelling compliance or for "turning the rascals out of office." Nor is there any contrivance, save a useless vote of censure, for insuring even a reply from the Government.

Interpellations or questions are important means of supervision in every legislature in which cabinet officers have seats and the right to speak. In the Japanese Diet, the opposition relies chiefly upon this method to bring the ministry to book. In either house, any member may put a question, or *shitsumon*, to a minister provided he obtains thirty supporters.[77] The question is proposed in a "concise memorandum" signed by the member and his supporters. The minister shall then immediately answer the question, or fix the day for his answer, or decline to answer, giving his reasons for declining. Replies are generally rendered with promptness, for postponement or refusal to reply, unless obviously made on grounds of grave danger to foreign relations or domestic tranquility, are signs of weakness and provoke humiliating taunts from the opposition.

On the eve of the opening of a session of the Diet, the leaders of the parties and groups in the opposition hastily map out a program of questions and assign parts to various members. No sooner are the ministerial speeches completed than the interpellations begin. And throughout the rest of the session, almost half of the time of the houses and much of the time of the committees is taken up with questions, replies of the ministers, retorts of the opposition members, and more speeches by the ministers and their supporters. In spite of the concise memoranda, the questions lack the brevity of their prototypes in the British Parliament. Obviously, *shitsumon* are employed by the opposition not only to secure information from the heads of departments, but also to embarrass and harrass the Government. Oftimes, questions are searching inquiries into

[75] *Kwampo gogai*, March 12 and 26, 1927, pp. 422, 697. Compare *Japan Chronicle*, March 17, 1927, p. 299.

[76] *Kwampo gogai*, March 28, 1931, pp. 1–56.

[77] *Giin-ho*, Articles XLVIII–L, LXXIV; Standing Orders of the House of Representatives, ch. viii. A request for documents may be coupled with the questions.

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domestic or foreign policy; ofttimes, they are trivial and impertinent. On the same day that one member propounds a genuine question regarding the conduct of Japanese troops in Manchuria, another member inquires of the premier whether one of his ministers lustily sang a Red song at the funeral of a well-known socialist.[78] The speeches on both sides are frequently able and dignified specimens of forensic art, but frequently they descend into nagging and equivocation, and finally into vituperation and personal violence. Unlike the more formal interpellations in the French parliamentary régime, Japanese practice does not require that this procedure be concluded by a vote. Nevertheless, unsatisfactory replies may lead to the adoption of a representation, or even to a vote of censure.

A fourth weapon against the cabinet is the *joso*, or address to the Throne. No motion for such an address can be made the subject of debate unless supported by thirty members.[79] If adopted in either house, the president may request an audience with the Emperor to present the address. There is no constitutional limit to the subjects that may be embraced in the memorial. The address to the Throne has been used, as in 1892, to pray an interpretation of the constitution. It may also be used to give publicity to any dereliction of the ministry. The *joso* has no legal effect.[80] The Emperor may not care to reply. Nevertheless, the reluctance of ministers to submit to this form of castigation before the Throne prompts concessions which might not otherwise be made.

A fifth means of control over the executive is found in the *fushinnin ketsugi* (resolution of non-confidence), the *monseki ketsugi* (resolution of censure), and the *dangai ketsugi* (resolution of impeachment). Neither the constitution nor the *Giin-ho* provides for these proceedings, which sound so drastic to Western ears. They have been developed by custom. Unlike the cabinet in the British and French parliamentary systems, the Japanese ministry is not responsible to the legislature, and thus resolutions of censure do not entail resignation. Furthermore, unlike the British practice, motions to censure or to impeach are not in the control of a leader of His Majesty's Opposition. Any member of the Diet may so

[78] *Kwampo gogai*, Feb. 3, 1932.

[79] *Giin-ho*, ch. xi.

[80] Uyesugi, *Kempo Jutsugi* (1927), pp. 471–472; Minobe, *Kempo Seigi* (1931), pp. 483–484, 681.

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move. As a result, the adoption of such motions are not so serious as they are in genuinely parliamentary systems. At the same time, it must be remembered, a vote against the Government demonstrates the fact that the cabinet has lost control of the legislative process and is on the defensive. In 1917, the introduction of a non-confidence motion in the House of Representatives led to a dissolution of the lower chamber even before the resolution was debated.[81] Withal, whether a party cabinet or a super-party cabinet be in office, a vote of censure is a technical defeat which any ministry seeks to avoid.

More than this, the House of Representatives has not been loathe to lay its formal condemnation upon another organ which on occasion greatly influences, if not dominates, the cabinet. After the resignation of the Wakatsuki cabinet as a result of the refusal of the Privy Council to approve a proposed emergency financial ordinance, the House, which was still in control of the Seiyukai and their allies, adopted a *dangai ketsugi*, or impeachment resolution, censuring the Council for its "unprecedented" conduct.[82]

It is thus apparent that the place of the Diet in the Japanese political system depends upon its political relationships, which change from month to month, rather than upon its constitutional competence. Frequently, enthusiastic liberals declare that the day of transcendental cabinets is past, only to be confronted again with a super-party ministry. The progress of the Japanese Diet toward parliamentary government of the British type has been too slow for the liberals and too rapid for the conservatives; but so far as the constitution is concerned, there are no legal limitations upon the legislature that bar its way toward the attainment of dominance in the political field.

[81] The *fushinnin ketsugi* was worded: "Resolved, That the House of Representatives does not confide in the present cabinet." Just as Yukio Osaki mounted the rostrum to speak on the motion, the imperial decree arrived. *Dai Nippon Teikoku Gikai-shi*, Vol. X, pp. 1074–1079 (Jan. 25 1917).

[82] *Kwampo gogai* March 8, 1927, pp. 8, 77.

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CONSTITUTIONAL LAW IN 1932–33

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1932

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A. QUESTIONS OF NATIONAL POWER

I. LEGISLATIVE POWER

1. Interstate Commerce—Radio Control

The Supreme Court has at last passed squarely upon the broad powers of the Federal Radio Commission over the business of broadcasting and has upheld them in a sweeping manner in the case of Federal Radio Commission v. Nelson Bros. Bond & Mortgage Co.[1] The general authority conferred on the Commission by the act of 1927 was enlarged in 1928 by provisions directing the Commission to maintain as great equality as possible in the allocating of broadcasting licenses among the zones created and further to distribute such licenses fairly and reasonably to the states within each zone according to population. In 1930, it appeared that Illinois had 55 per cent more than its quota of stations, while Indiana had 22 per cent under its quota. The Commission assigned to station WJKS at Gary, Indiana, operating rights on a frequency theretofore used by two Chicago stations. One of these, operated commercially by the respondent, used much National Broadcasting Company program material; the other, operated by the North Shore Church of Chicago, broadcast only religious programs. The effect of the order was to rule these stations off the air. It appeared that the Gary station had suffered from interference, and was furthermore equipped to serve its audiences with programs of unique interest. The Court of Appeals of the District of Columbia held the order void as "arbitrary and capricious."

Chief Justice Hughes' opinion for a unanimous Court upholding the Commission's order considered first the Court's jurisdiction to hear the case. In Federal Radio Commission v. General Electric Co.,[2] the Court had held that the Radio Act of 1927, in conferring upon the Court of Appeals of the District the right to review the Commission's findings and to alter and revise them as seemed just in the light of evidence received, made that tribunal a superior and revising agency in the administrative field. Its decisions could not, therefore, be reviewed by the Supreme Court, since such review would involve the exercise of nonjudicial power. But in 1930, in order to meet this decision, Congress

[1] 289 U. S. 266, 1933.

[2] 281 U.S. 464, 1930. For comment, see this REVIEW, vol. 25, p. 78.

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amended the act so that the power of the Court of Appeals of the District is now limited to a review of "questions of law." It further specified that "findings of fact by the Commission, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings of the Commission are arbitrary or capricious." These changes clearly establish judicial review in place of the earlier administrative review, and the decisions of the Court of Appeals of the District may therefore be reviewed by the Supreme Court without the exercise of non-judicial power.

The Court then proceeds to consider the validity of the Commission's order. The Commission had power to refuse or grant licenses, renewals or applications. This power Congress could properly confer upon it in view of the limited broadcasting facilities available and the confusion resulting from interference. No stations acquire any rights superior to these broad powers of regulation. "The power of Congress in the regulation of interstate commerce is not fettered by the necessity of maintaining existing arrangements which would conflict with the execution of its policy, as such a restriction would place the regulation in the hands of private individuals and withdraw from the control of Congress so much of the field as they might choose by prophetic discernment to bring within the range of their enterprises." The allotment made in the present order is not arbitrary or capricious, in view of the relative quota status of Illinois and Indiana. The stations operated by the respondents are deleted, not because of failure to meet legal requirements, but in the interest of equitable allocation. The Commission's findings are supported by evidence, and the procedure followed was not open to attack.

2. National Taxation

a. Due Process Problems in National Taxation. Brooks, a citizen of Great Britain, residing in Cuba, died there leaving an estate consisting in part of bonds, securities, and cash deposits which were located in New York, where the income was collected and placed to his credit. Could this property be lawfully included in his gross estate for purposes of the Federal Estate Tax Act? The law includes in a decedent's gross estate property "which at the time of his death is situated in the United States." The Court, in an opinion by Chief Justice Hughes, in the case of Burnet v. Brooks,[3] upholds the inclusion of the property for taxing purposes. There is evidence of legislative intention to place within reach of the estate tax all property, tangible or intangible, which is physically present in the United States at the time of the decedent's death. But is a federal tax upon intangibles kept in this country owned by non-residents consistent with due process of law, which requires clear jurisdiction over property for purposes of taxation? The argument is, of course,

[3] 288 U.S. 378, 1933.

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based on the maxim *mobilia sequuntur personam* which regards bonds and securities as property at the domicile of the owner. And the Court is confronted by its own recent decisions in Farmer's Loan & Trust Co. v. Minnesota[4] and Baldwin v. Missouri,[5] in which it not only followed the doctrine that intangibles are property at the domicile of the owner but, in order to avoid double taxation, denied to the states in which the securities were physically present jurisdiction to tax them. In the present case, the Court emphasizes that these decisions bearing upon the jurisdiction of the states to tax were predicated upon the principle that "proper regard for the relation of the states in our system required that the property under consideration should be taxed in only one state and that jurisdiction to tax was restricted accordingly." The federal government, however, is not thus limited in its power to tax. Its taxing authority is unimpaired by the possibility of any ensuing double taxation. "As a nation with all the attributes of sovereignty, the United States is vested with all the powers necessary to maintain an effective control of international relations." Consequently it may tax any and all property which, without violating the principles of international law, may be deemed to lie within its jurisdiction. Judged by such a standard, as well as by the accepted practice of this and other countries, the intangibles here involved were properly taxable in this country.

Three cases presented due process questions relating to the applicability of the federal estate tax law to technical transfers of property made before death. In Gwinn v. Commissioner of Internal Revenue,[6] a mother and son acquired by equal contributions certain property as joint tenants. At her death, half the value of the joint property was included in the value of her gross estate. This was upheld on the theory that while no actual transfer took place, the death of one of the parties to the joint tenancy "became the 'generating source' of important and definite accessions to the property rights of the other." The transfer of these rights is properly taxable under the law. In Porter v. Commissioner of Internal Revenue,[7] Porter created five trusts for the benefit of his daughter and her children. In each case he reserved to himself the right to alter the trusts in any manner except by changes in favor of himself or his estate. It was held that Porter's death ended the possibility of change by him in the nature or disposition of the trusts, and was therefore "the source of valuable assurance passing from the dead to the living." The value of the trusts was properly taxable under the estate tax act. In Reinecke v. Smith,[8] trusts were created for the benefit of the grantor's wife and children. The trustees were the grantor, a son who was also a beneficiary,

[4] 280 U.S. 204, 1930. For comment, see this REVIEW, vol. 25, p. 90.
[5] 281 U.S. 586, 1930. For comment, see this REVIEW, vol. 25, p. 92.
[6] 287 U.S. 224, 1932. [7] 288 U.S. 436, 1933. [8] 289 U.S. 172, 1933.

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and a banking company. The trusts were specifically subject to change or revocation by the grantor together with either one of the other two trustees. While it had earlier been held[9] that a trust revocable only by the joint action of the grantor and the beneficiary was not taxable as part of the grantor's estate since the beneficiary may always prevent revocation, that situation does not prevail here. The grantor in this case retains practically full power to revoke or change the trusts, since he may do so with the consent of a trustee who is not a beneficiary and who has, therefore, no interest adverse to such change. A revocable trust amounts to "no more than an assignment of income" during the life of the grantor, and the value of the trusts is therefore properly included in his estate at death. A scrutiny of these somewhat technical cases indicates how persistent and shrewd are the efforts made to evade the estate tax, and how important it is that the Court, as here, should decide these cases in the light of practical realities rather than their superficial aspects. The problem of due process in each of the cases arises from the fact that the inclusion in a decedent's estate for purposes of estate taxation of property finally transferred before death would be a taking of property without due process of law.[10]

b. Taxation of State Agencies. A new problem in the field of intergovernmental taxation was presented in the case of Board of Trustees of the University of Illinois v. United States.[11] The University imported scientific materials for use in its laboratories and was compelled to pay import duties thereon to the federal government. These payments were made under protest, the University insisting that as an instrumentality of the state of Illinois and discharging a governmental function it was free from taxation by the federal government. In a unanimous opinion by Chief Justice Hughes, the tax was sustained. The import duties in question are imposed by Congress in the exercise of its authority "to regulate commerce with foreign nations." This authority over foreign commerce is plenary. It includes the right to determine what articles may be imported into this country and the terms upon which such importation is permitted. No one has any vested right to engage in foreign commerce, and Congress might, should it see fit, place a complete embargo upon the importation of goods from abroad. No state has any right to engage in foreign commerce free from the restrictions which Congress may impose.

The opinion is interesting for two reasons. In the first place, the Court

[9] Reinecke v. Northern Trust Co., 278 U.S. 339, 1929. For comment, see this REVIEW, vol. 24, p. 75.

[10] Problems of due process affecting somewhat technical aspects of federal taxation are dealt with in Burnet v. Guggenheim, 288 U.S. 280, 1933, and Moore Ice Cream Co. v. Rose, 289 U.S. 373, 1933.

[11] 289 U.S. 48, 1933.

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has at last recognized the commerce power as the constitutional basis for the imposition of tariff duties. It will be recalled that in Hampton & Co. v. United States[12] the validity of the protective tariff was upheld on the theory that it was a phase of the federal taxing power. The present interpretation of the tariff as a regulation of commerce is certainly far more realistic. In the second place, it may be noted that while the power of the federal government to lay taxes is limited by "the principle of duality in our system of government" so as to forbid the imposition of a tax which burdens an instrumentality of the state, it is here emphasized that the power over foreign commerce, being exclusive and plenary, is not subject to the limitations arising out of this duality. It appears, therefore, that if the states and their instrumentalities are to escape the payment of tariff duties, it must be as the result of specific action by Congress to that end.

In Burnet v. Jergin's Trust,[13] the city of Long Beach owned certain lands upon which oil was discovered. Part of these lands were leased by the city to the respondent for the purpose of developing the oil resources under an agreement which gave the city 40 and the respondent 60 per cent of the proceeds. The Court refuses to hold the income derived by the respondent from the lease immune from federal income taxation. It appears that the tax is not on the property of the city, nor on the city's income from its property, nor on its share of the oil, nor on the lease, nor on the gross income from the lease. "We think that in the present instance the subject of the tax is so remote from any governmental function as to render the effect of the exaction inconsiderable as respects the activities of the city." The Court distinguishes the present case from earlier decisions seemingly in conflict with it on the ground that in those cases "the burden upon the public use was more definite and direct than in the present case." The case represents a further step in the direction of establishing the degree of interference with a governmental agency as the test of the validity of a federal tax upon it.[14]

[12] 276 U.S. 394, 1928. For comment, see this REVIEW, vol. 23, p. 78.

[13] 288 U.S. 508, 1933.

[14] The case of Cook v. United States, 288 U.S. 102, 1933, involved the problem of the supersedure of a treaty by a subsequent statute. The tariff act of 1922 authorized Coast Guard officials to search and seize vessels within twelve miles of our coast for violations of the prohibition laws. By treaty with Great Britain in 1924, this right was limited to "the distance from the coast of the United States which can be traversed in one hour by the suspected vessel." The tariff act of 1930 contained the identical provision on this point found in the earlier statute. The Supreme Court refused to hold that the act of 1930 had superseded the treaty of 1924. There is no evidence that Congress had intended this supersedure, and until the present case administrative officers had assumed the treaty to be still effective. A treaty will be deemed to be abrogated by a later statute only when the legislative intention to abrogate is clearly expressed.

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II. JUDICIAL POWER AND FEDERAL COURTS

1. Constitutional versus Legislative Courts

In two important cases, the Supreme Court has at last settled the status of the courts of the District of Columbia and the Court of Claims. In doing so, it has left an aftermath of overruled decisions and discarded dicta in its wake. Both cases arose under the legislative reduction of salaries effected by the act of 1932. It is obvious that if the courts in question are constitutional courts organized under Article III of the Constitution, the salary reductions are invalid as being specifically forbidden by that article. If, on the other hand, the courts of the District of Columbia and the Court of Claims are legislative courts created by Congress in pursuance of delegated powers other than those set forth in Article III, the salaries of the judges are subject to such diminution as Congress may deem expedient.

In O'Donoghue v. United States,[15] the courts of the District of Columbia are held to be constitutional courts within the provisions of Article III. This conclusion, of course, definitely discards the dictum in the case of *Ex parte* Bakelite Corporation[16] in which Mr. Justice Van Devanter had declared the courts of the District to be legislative courts. The present conclusion is supported in an opinion by Mr. Justice Sutherland upon the following grounds: First, the courts of the District are to be distinguished from territorial courts, which, since Marshall's decision in American Insurance Company v. Canter,[17] have been held to be legislative courts, on the ground of the permanent character of the District of Columbia. Territories are admittedly temporary in status, while the District of Columbia is established permanently. This fact lends force to the view that the courts of the District are part of the regular judicial system of the country created under the authority of Article III. In the second place, the District of Columbia comprises territory ceded by Maryland and Virginia to which the Constitution originally attached. The courts originally sitting in this territory were, of course, constitutional courts. The Constitution once having attached to this area cannot be revoked therein, and consequently the courts of the District are still constitutional courts. In the third place, it has been repeatedly held that the territorial courts are incapable of receiving the judicial power of the United States derived from Article III, whereas exactly the opposite rule has been applied to the courts of the District. This analysis, however, does not meet the point that Congress has consistently imposed upon the courts of the District of Columbia duties which are non-judicial in character. Its power to do so was sustained in the recent case of Federal

[15] 289 U.S. 516, 1933.

[16] 279 U.S. 438, 1929. For comment, see this REVIEW, vol. 24, p. 80.

[17] 1 Peters 511, 1828.

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Radio Commission v. General Electric Company.[18] How can this be reconciled with the established doctrine that Congress may not impose non-judicial duties upon the courts created under the authority of Article III, a doctrine resting upon the theory of the separation of powers? This difficulty Mr. Justice Sutherland meets by declaring that the courts of the District are created not only in pursuance of Article III, but also under the special power granted to Congress to govern the District. Thus there is established a dual basis for control. The courts of the District are thus entitled to the immunities created by Article III with reference to tenure and compensation, while at the same time they may be freely utilized by Congress in the performance of administrative or other non-judicial duties. A brief dissenting opinion by Chief Justice Hughes, concurred in by Justices Van Devanter and Cardozo, rejects the constitutional character of the courts of the District and reaffirms the Court's previous position that those tribunals are created under the special authority conferred for the government of the District of Columbia.

The case of Williams v. United States[19] establishes that the Court of Claims is a legislative court, and not created under the authority of the judiciary article of the Constitution. The history of the Court of Claims supports this conclusion and indicates that this is the view which Congress has consistently taken with regard to it. But does not the Court of Claims exercise judicial power, and if so, does not that judicial power come from Article III? The Court, speaking again through Mr. Justice Sutherland, holds that the Court of Claims does exercise judicial power, but not the judicial power defined in Article III. It is rather a judicial power analogous to that exercised by the territorial courts and that exercised by both federal and state courts in the naturalization of aliens. A difficulty seems to be presented by the fact that the Court of Claims hears actions brought against the United States, while Article III specifically describes the federal judicial power as extending to "controversies to which the United States shall be a party." The Court, however, holds that the clause quoted from Article III must be interpreted as not extending judicial power to cases in which the United States is a defendant, since the framers of the Constitution did not intend to authorize suits against the government. Hence the jurisdiction over such suits cannot be derived from Article III. Furthermore, Congress could confer the power to hear and determine claims against the United States upon some branch of the executive department or upon the committees of Congress itself. This being so, the power exercised by the Court of Claims cannot be the judicial power defined in Article III, which obviously cannot be conferred upon any non-judicial body.

[18] 281 U.S. 464, 1930. For comment, see this REVIEW, vol. 25, p. 78.
[19] 289 U.S. 553, 1933.

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2. Declaratory Judgments

One of the more important cases decided at the present term is that of Nashville, C. & St. L. R. Co. v. Wallace,[20] in which the Supreme Court decided unanimously that it could properly review a declaratory judgment originating in a state court. The case arose out of a suit brought in a Tennessee court under the Uniform Declaratory Judgments Act of that state to secure a judicial declaration that a state excise tax levied upon the storage of gasoline in the state by the railroad violated both the commerce clause and the Fourteenth Amendment.[21] The substance of the Tennessee Declaratory Judgments Act may be summarized as follows: 1. It authorizes the declaration of rights whether or not further relief is or could be claimed. 2. Such declaration may be positive or negative, and shall have the force and effect of a final judgment or decree. 3. Any person whose rights, status, or regular relations are affected by a statute may have determined any question of construction or validity arising under the statute and may obtain a declaration of rights thereunder. 4. The courts may refuse to give a declaratory judgment where, if rendered, it would "not terminate the uncertainty or controversy giving rise to the proceeding." 5. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration. No declaration shall prejudice the rights of persons not made parties to the proceedings.

In the present case, the relief sought is that the taxing statute shall be declared void. Mr. Justice Stone, speaking for the Court, points out that the facts of the case would constitute a case or controversy within the reach of judicial power if presented in an action for an injunction to restrain the collection of the tax. The precise form in which the case is presented is not important as long as the elements are present necessary to make a case or controversy within the reach of federal judicial power. This is not a request for an abstract determination of the validity of a statute presented in a case in which no genuine adverse interests are present, nor is it "a decision advising what the law would be on an uncertain or hypothetical statement of facts as was thought to be the case in Liberty Warehouse Co. v. Grannis."[22] Nor is it less an exercise of judicial power because it does not result in a judgment requiring an award of process or execution. Such awards of process or execution are not indispensable to judicial power, as is evidenced by their absence in [illegible] adjudication of state boundaries and in the review of judgments [illegible]urt of Claims where no process lies against the government.

[20] 288 U.S. 249, 1933.

[21] The validity of this tax is discussed on page 62 *infra*.

[22] 273 U.S. 70, 1927. For comment, see this REVIEW, vol. [illegible]. 85.

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The decision has been received with great satisfaction by those who have long been sponsoring the declaratory judgment as a desirable reform in American jurisprudence. The earlier opinions of the Supreme Court had been hostile to the declaratory judgment, although the major issues involved in the new procedure were never squarely raised.[23] The opinion in the present case represents a change in attitude. As Professor Borchard puts it, "The bogey which for so long confused the declaratory judgment with an advisory opinion or a moot case has thus finally been laid to rest. All that is needed for the exercise of judicial power is a 'real and substantial' controversy, raised by one party against another party having adverse interests, and susceptible of judicial determination."[24] It seems evident that a carefully drawn statute conferring upon the federal courts the power to render declaratory judgments would be upheld.

3. Admiralty Jurisdiction

In United States v. Flores,[25] the jurisdiction of the United States district court in Pennsylvania was upheld in a prosecution for a murder committed by an American citizen on a United States vessel 250 miles inland on one of the rivers of the Belgian Congo. This jurisdiction is held to be derived from the admiralty and maritime jurisdiction of the United States, which is not limited to the territorial waters of the United States nor to the high seas, but extends as well to American vessels in foreign waters. This broad range of admiralty and maritime jurisdiction is held not to be limited in its geographic scope by the specific constitutional grant to Congress of the power to define and punish piracies and felonies committed on the high seas and offenses against the law of nations. The concurrent criminal jurisdiction of the Belgian government is frankly admitted, but since that jurisdiction was not asserted it does not enter as a factor in the present case.[26]

[23] See Liberty Warehouse Co. v. Grannis, 273 U.S. 70, 1927; Liberty Warehouse Co. v. Burley Tobacco Growers' Coöperative Marketing Association, 276 U.S. 71, 1928; Willing v. Chicago Auditorium Association, 277 U.S. 274, 1928. For comment on this last case, see this REVIEW, vol. 23, p. 82.

[24] See his brief note on this case, *Yale Law Journal*, vol. 42, p. 974.

[25] 289 U.S. 137, 1933.

[26] The exercise of federal judicial power in suits between states occurs in the case of Vermont v. New Hampshire, 289 U.S. 593, 1933, in which a boundary dispute is adjusted, and in Wisconsin v. Illinois, 289 U.S. 395, 1933, in which the Court's earlier decree in the Lake Michigan water diversion case is enlarged to include a mandate upon Illinois to take steps to secure the completion of the needed sewage disposal plant. Other cases throwing light upon the scope and exercise of federal judicial power are Hawks v. Hamill, 288 U.S. 52, 1933; Miller v. Aderhold, 288 U.S. 206, 1933; Quercia v. United States, 289 U.S. 466, 1933; Public Service Commission v. Wisconsin Telephone Company, 289 U.S. 67, 1933.

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III. FEDERAL BILL OF RIGHTS

1. Searches and Seizures

In two cases, the Supreme Court emphasizes again the strictness with which it will enforce the search and seizure guarantees of the Fourth Amendment for the benefit of individuals charged with crime. In Grau v. United States,[27] a search warrant under which liquor had been found and used as evidence against the accused was held void for failure to allege the unlawful sale of intoxicating liquor in the dwelling house to be searched. The National Prohibition Act expressly forbids the search of a private dwelling unless it is being used for the unlawful sale of liquor. The warrant here not only failed to allege the sale, but did not set forth facts which would lead "a man of prudence and caution to believe that the offense has been committed."

In Sgro v. United States,[28] a warrant was issued for the search of a hotel, but was not executed within the ten days prescribed by the National Prohibition Act. Some days after its expiration it was redated, reissued, and executed. The Court held the search invalid as not being supported by a proper warrant. A valid warrant must rest upon a proper finding and statement that probable cause at that time exists. There was no proof that probable cause did exist at the date of the reissue of the warrant. The Fourth Amendment should be construed liberally in favor of the individual, and its reasonable interpretation does not support the search in the present case.

2. Due Process of Law—Eminent Domain

In Reichelderfer v. Quinn,[29] it was urged on the Court that the erection of a fire engine house in Rock Creek Park in the city of Washington near the property of the respondents amounted to a taking of that property without compensation in violation of the Fifth Amendment. It was alleged that the park at its creation was perpetually dedicated to park purposes and that abutting owners, relying upon this dedication, had acquired rights to the continued use of the land for park purposes which could not be taken away without compensation. The Court finds no basis for implying any restrictions upon the park lands in favor of adjoining owner. The dedication of the park implied no promise that it would be continued in perpetuity.[30]

[27] 287 U.S. 124, 1932.

[28] 287 U.S. 206, 1932.

[29] 287 U.S. 315, 1932.

[30] The due process requirement of certainty in a criminal statute is involved in United States v. Shreveport Grain & Elevator Co., 287 U.S. 77, 1932; while the due process aspects of the judicial review of administrative determinations are considered in Lloyd Sabaudo Societa Anonima v. Elting, 287 U.S. 329, 1932, and in Norfolk & Western Ry. Co. v. United States, 287 U.S. 134, 1932.

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IV. STATUTORY INTERPRETATION

1. The Interstate Commerce Commission and its Powers

The present term presented a number of cases involving the construction of the Transportation Act of 1920 and the powers of the Interstate Commerce Commission thereunder. Of these, the following may be singled out for comment. In New York Central Securities Corporation v. United States,[31] the Commission authorized the New York Central to acquire control by lease of the Big Four Railroad and the Michigan Central Railroad, each of which it already controlled through stock ownership. This order was held valid. Questions as to whether the Transportation Act conferred the power here exercised upon the Commission were answered affirmatively. One interesting constitutional question was raised, namely, whether Congress had improperly delegated legislative power to the Commission by authorizing it to permit one railroad to acquire control of another when the "public interest" required it. It was urged that the criterion of public interest was vague and uncertain, and permitted the Commission to act in accordance with its conception of the general public welfare. The Court held, however, that public interest is a criterion not lacking in reasonable certainty, since it is to be defined in terms of the purposes which have been held by the Court to underlie the act of 1920. These purposes include adequacy of transportation services, economy and efficiency, and the best use of transportation facilities. Guided by these standards, the Commission is not exercising legislative power, but is giving effect to a congressional policy.

In Interstate Commerce Commission v. Oregon-Washington R. & Nav. Co.,[32] the Supreme Court side-stepped an important constitutional issue by adopting a limited construction of the Transportation Act of 1920. That statute allows the Interstate Commerce Commission to order a railroad to "extend its lines" provided public necessity and convenience requires such extension, and provided the ability of the carrier to render adequate public service will not be impaired. In pursuance of this authority, the commission ordered a subsidiary of the Union Pacific Railroad Company to build 185 miles of railroad across the Central Desert of Oregon at a cost of approximately ten million dollars. The Commission's findings indicated that the extension would not be immediately profitable but might become so in time. The Supreme Court set aside the order as not being within the authority conferred by the statute. It held that in the light of earlier interpretations the term "extension" must be limited to mean extensions within the present area of service rather than those which penetrate into new and previously unserved territory. Declaring that it is the duty of the Court so to construe a statute when possible as

[31] 287 U.S. 12, 1932.

[32] 288 U.S. 14, 1933.

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to avoid giving it an unconstitutional meaning, or even a meaning which would raise grave doubts as to its validity, the Court intimated that unless the statute was thus narrowly construed it would violate the due process clause of the Fifth Amendment. A dissenting opinion by Mr. Justice Cardozo, concurred in by Justices Brandeis and Stone, urged that Congress had intended to confer exactly the power which the Commission had here sought to exercise, and that such power involved no denial of due process.

Alton Railroad Company v. United States[33] upheld the jurisdiction of the Court to review an order of the Interstate Commerce Commission declaring a division of joint rates voluntarily established by carriers to be not unreasonable. Such an order, though negative in form, was declared to be not negative in character so as to fall within the rule forbidding judicial review of orders of the Interstate Commerce Commission which are negative in character. The Commission is not at liberty to decline to exercise its jurisdiction when invoked to secure the determination of the question of whether such joint rates shall be maintained.[34]

2. The Sherman Act

A case of great present importance and far-reaching implications is that of Appalachian Coals, Inc. v. United States,[35] which involved a suit to enjoin a combination alleged to be in restraint of interstate commerce. The producers of 74 per cent of the bituminous coal in the Appalachian area created the Appalachian Coals, Incorporated, as an exclusive selling agency. Its alleged purpose was to "increase the sale, and thus the production, of Appalachian coal through better methods of distribution, intensive advertising and research, to achieve economies in marketing, and to eliminate abnormal, deceptive, and destructive trade practices." In an illuminating opinion by Chief Justice Hughes, the Court fails to find a violation of the Sherman Act. Reiterating the well known "rule of reason" to the effect that the Sherman Act bans only such restraints of trade as are unreasonable, the Chief Justice proceeds to analyze the factual elements involved. The deplorable condition of the coal industry is reviewed and the objectionable and destructive competitive practices prevailing therein are examined. The evidence is held to indicate that the defendants' intentions are to remedy these undesirable conditions, and that the plan proposed will not result in the fixing of the prices of coal in consumers' markets or in unreasonable restraints upon fair competition. The acute-

[33] 287 U.S. 229, 1932.

[34] Other aspects of the statutory powers of the Interstate Commerce Commission are involved in Texas & Pacific Ry. Co. v. United States, 289 U.S. 627, 1933 and United States v. Great Northern Ry. Co., 287 U.S. 144, 1932.

[35] 288 U.S. 344, 1933.

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ness of the present economic situation is strikingly alluded to. "When industry is grievously hurt, when producing concerns fail, when unemployment mounts and communities dependent upon profitable production are prostrated, the wells of commerce go dry." In such a situation, "voluntary action to rescue and preserve these opportunities [of fair competition], and thus to aid in relieving a depressed industry and in reviving commerce by placing competition upon a sounder basis, may be more efficacious than an attempt to provide remedies through legal processes." On the evidence, it seems apparent that the producing companies might lawfully have merged their properties under a single ownership. The proposed organization is less drastic and equally lawful. The injunction sought by the government is denied, but since the selling agency has not yet been put into operation, the action may be renewed if experience demonstrates that the plan results in actual violations of the Sherman Act.

3. The National Prohibition Act—Entrapment

In Sorrells v. United States,[36] a conviction under the National Prohibition Act was secured upon evidence indicating that the accused had sold intoxicating liquor to a government agent only very reluctantly and as a result of the urgent solicitation and insistence of the officer, who was posing as a tourist. This gave the Supreme Court an opportunity to settle the question as to the meaning and use of the defense of entrapment. A majority of the Court, speaking through Mr. Justice Hughes, recognized the propriety of this defense. It emphasized the desirability of not punishing those who have been led to commit crime by the instigation of government officials. To this end, the Court develops the theory that the penal statute involved must be so construed as not to extend to offenses committed under these circumstances. In a separate opinion by Mr. Justice Roberts, and concurred in by Justices Brandeis and Stone, this theory is rejected and in its place it is urged that the doctrine should be set up that on grounds of public policy the federal courts must be deemed closed to the trial of crimes instigated by the government's own agents.

4. Apportionment of Congressional Districts

Under the Congressional Reapportionment Act of 1929, Mississippi is entitled to seven representatives in Congress instead of eight as before. In 1932, the legislature of the state blocked out seven congressional districts. This statute was attacked on the ground that these districts were not composed of contiguous and compact territory and did not contain as nearly as practicable an equal number of inhabitants. Action was brought to have the state districting act set aside and the representatives in Congress chosen on a state-wide ballot. In the Congressional Apportion-

[36] 287 U.S. 435, 1932.

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ment Act of 1911, the requirements of compact and contiguous territory and substantial equality of population were definitely set up, but in the act of 1929 these requirements were omitted. The legislative history of the later act makes it clear, furthermore, that they were not omitted through inadvertence but that the omission was deliberate. Such being the case, the earlier federal restrictions upon gerrymandering are no longer applicable and the Mississippi statute is not open to attack. This is the case of Wood v. Broom.[37]

B. QUESTIONS OF STATE POWER

I. FOURTEENTH AMENDMENT

1. Due Process of Law

a. Due Process and State Police Power. In Advance-Rumely Thresher Co. v. Jackson,[38] a North Dakota statute providing that persons buying certain classes of complicated farm machinery should have a reasonable time for the inspection and testing of it and the privilege of rescinding the contract for its purchase should it prove to be unfit for the purpose for which it was sold. To this was added the stipulation that any contracts purporting to waive the rights created by the statute should be void as against public policy. The statute is upheld as a valid exercise of the state police power. It is pointed out that the average farmer is not sufficiently familiar with new and complicated machinery to be able to judge its fitness without thorough trial, and at the same time the economic distress resulting from the severe losses which the statute aims to prevent, and which would be borne by those engaged in the state's basic industry, justifies the restrictions set up.

In Young v. Masci,[39] there is held to be no denial of due process of law in holding liable for damages under a New York statute a New Jersey citizen who loaned his automobile to a third person who took the car to New York and there negligently inflicted injury. The evidence showed that the owner had given permission, either express or implied, to make the trip.

The broad range of the states' police power in dealing with the use of their public highways is made clear in the case of Stephenson v. Binford.[40] A Texas statute, in addition to elaborate provisions governing common carriers operating for hire over the state roads, subjected private carriers operating under contract to the following restrictions. Contract carriers must secure from the railroad commission a permit to operate as such. Such permit is not to be issued if the operation of such contract carrier will impair the efficient public service of any authorized common carrier

[37] 287 U.S. 1, 1932.
[38] 287 U.S. 283, 1932.
[39] 289 U.S. 253, 1933.
[40] 287 U.S. 251, 1932.

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serving the same territory. The commission is to regulate the competition of contract carriers with common carriers and may establish minimum rates for such contract carriers "which shall not be less than the rates prescribed for common carriers for substantially the same service." Contract carriers and common carriers must be mutually exclusive, neither assuming the status and privileges of the other. The validity of these provisions was attacked on the ground that they virtually convert private contract carriers into common carriers by legislative fiat, compel them to devote their property to quasi-public use, and thus deprive them of property without just compensation and in denial of due process of law. The Supreme Court sustained the act in the face of these objections. The statute does not convert private contract carriers into common carriers. It is rather a police regulation passed in pursuance of the states' power to deal with the increasingly complex and pressing problems of highway control. It is a "means to the legitimate end of conserving the highways" and fostering "a fair distribution of traffic to the end that all necessary facilities should be maintained and that the public should not be inconvenienced by inordinate uses of its highways for purposes of gain." The power of the state over its highways is analogous to that which it enjoys with respect to the conditions under which it permits public work to be done on its behalf. "It may be said with like force that it belongs to the state 'as master in its own house,' to prescribe the terms upon which persons will be permitted to contract in respect of the use of the public highways for purposes of gain." The statute does not violate the equality clause of the Fourteenth Amendment, because it fails to subject "shipper-owners" to the restrictions complained of.

In Gant v. Oklahoma City,[41] a municipal ordinance required anyone drilling an oil or gas well within the city limits to file with the city clerk a bond of $200,000 through a bonding company for each well to cover the payment of damages resulting from the "drilling, operation, or maintenance of any well or any structures appurtenant thereto." This is held not to deny due process. In view of the dangers implicit in the drilling and operation of gas or oil wells, the requirement is neither arbitrary nor unreasonable, nor is it rendered invalid by reason of the fact that in particular cases it works great hardship upon those unable to comply with its terms.

There is no denial of due process or equal protection of the laws in a state statute raising the presumption that the failure of a railroad company to give required signals is the proximate cause of a grade crossing accident, as long as evidence rebutting the presumption is presented for the consideration of the jury. This is the case of Atlantic Coast Line R. Co. v. Ford.[42]

[41] 289 U.S. 98, 1933.

[42] 287 U.S. 502, 1933.

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b. Due Process and the Military Power of the State Governor. In August, 1931, the legislature of Texas amended the state oil and conservation act to provide for restriction of oil production. Thereupon Governor Sterling, declaring that an organized group of oil and gas producers were "in a state of insurrection" against the conservation laws, and that the high public resentment aroused against them had caused imminent danger of widespread violence, proclaimed martial law in certain areas, called out state troops, and shut down the wells. In September, the railroad commission, in pursuance of the statute, made an order limiting production, and with the aid of the military force this was enforced. A federal district court enjoined the commission from the enforcement of the orders on constitutional grounds. The governor and his military officers, assuming themselves to be outside the jurisdiction of the court because of the prevalence of "war conditions," took over control of the production of oil and proceeded to enforce drastic limitations. An amended complaint was filed making the governor and his military officers parties to the suit and alleging the invalidity of the military and executive orders under the state constitution and laws and under the Fourteenth Amendment. In defense of the governor's action, it was urged that he had the power to declare martial law, that the sufficiency of his reasons for doing so are not subject to judicial review, that the means of enforcing martial law may not be controlled by injunction, and that the governor's finding that it is necessary to take property constitutes due process of law. The issues were presented to the Court in Sterling v. Constantin.[43]

A unanimous court, speaking through Chief Justice Hughes, upheld the injunction, making the following points: First, the district court had jurisdiction since the action was not a suit against the state, since the governor enjoys no immunity against federal judicial action, and since federal questions were properly raised. Second, it is assumed, without so deciding, that the state constitution authorizes what the governor has done, since this is a problem of local law. Third, the property rights involved are protected by the Fourteenth Amendment and this protection can neither be withdrawn nor interfered with by the governor, who has no authority to interfere with a federal court in the exercise of its powers. Fourth, this involves no impairment of proper state authority nor the governor's power to see that the laws are faithfully executed. His admitted power to deal with disorder and insurrection by military force gives him no blanket authority to enforce executive fiats affecting private property rights. The "allowable limits of military discretion" are judicial questions. In this instance the military power was employed, not to suppress an uprising (for no evidence of threatened violence appeared), but for the actual obstruction of orderly judicial process.

[43] 287 U.S. 378, 1932.

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c. Due Process and Public Utility Rates. Of the cases involving the test of due process as applied to public utility rates, four may be mentioned. In Los Angeles Gas & Electric Corporation v. Railroad Commission,[44] a reduction in gas rates leaving a seven per cent return to the company was held non-confiscatory. In an opinion by Chief Justice Hughes, too elaborate for summary here, a careful analysis of the rate base used by the state commission was made and no reason found for setting it aside. There was evidence that the elements of historical cost, reproduction cost, going value, and depreciation had all entered into the estimates of the value of the company's property. The Court declined to insist upon any "artificial rule or formula" for determining this value as long as the pertinent elements had been given due consideration. In Public Service Commission v. Great Northern Utilities Co.,[45] the defendant had reduced its price for gas in a town of two thousand to a figure below the cost of production in order to drive a competing gas company out of business. It was held not to deny due process of law for the public service commission to raise this rate from 15 to 35 cents per thousand cubic feet, since it appeared that the low rate would result in losses impairing the defendant's ability to render dependable service. The company has no "constitutional right by unrestrained cutting of rates to destroy the competitor." In determining electric rates for a city, there is no denial of due process in using as the unit for rate-making the property employed in supplying electric current to the city alone, rather than the entire property and system of the company which supplies some 50 cities in 13 counties. A proper rate base is provided by adding the value of the local utility property and the proportionate share of the company's whole property which is fairly attributable to the service supplied the city. A return of seven per cent for the service is not confiscatory. This is the case of Wabash Valley Electric Co. v. Young.[46] In Great Northern Ry. Co. v. Sunburst Oil & Refining Co.,[47] there is held to be no denial of due process of law in a statute so construed as to authorize the state board of railroad commissioners to fix intrastate freight rates, and, upon a later finding that such rates were unduly high, to compel the railroad to refund to shippers the difference between the new and the old rates. Nor is their denial of due process in a decision of the state supreme court that the previous statutory construction permitting the retroactive application of the revised rates is erroneous and will not in the future be enforced, but that the overruled construction (requiring the payment of the refunds) will be applicable to all transactions down to the time of the new decision. The remarks of Mr. Justice Cardozo upon this last point illuminate the problem of the effect upon past transactions of overruling decisions.

[44] 289 U.S. 287, 1933.
[45] 289 U.S. 130, 1933.
[46] 287 U.S. 488, 1933.
[47] 287 U.S. 358, 1932.

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d. Due Process in Procedure. While the final chapter in the "Scottsboro Case" has not yet been written, one important phase of it may be read in the Supreme Court's decision in Powell v. Alabama.[48] It was there held that seven negro boys had been denied due process of law because they had been convicted of a capital crime in a trial in which they had been deprived of the assistance of counsel. The Court's opinion, written by Mr. Justice Sutherland, falls into two main parts. In the first, the record is analyzed to determine whether there was, in fact, a denial of counsel to the defendants, and such denial is established. It appears that from the moment of their arrest until they were sentenced the accused were guarded closely by soldiers against a hostile community. Upon indictment, they were arraigned and pleaded guilty without the presence of friendly counsel and without inquiry as to whether they desired or were able to secure counsel. At that time the judge appointed "all the members of the bar" as counsel for the purpose of the arraignment. When their trial began six days later, no lawyer appeared for them, but a Mr. R. from Tennessee where the defendants had lived said he had been asked by those interested in the accused to be present and that he would be willing to assist such counsel as the court might appoint. After rather vague and confused colloquy, it seems to have been agreed that Mr. M., a member of the local bar, should assist Mr. R. The trial judge again suggested that all the members of the bar should assist, and the record does not make it clear upon whose shoulders the primary responsibility actually fell. No time was allowed for preparation of the case for the defense, and the appearance of counsel was "rather *pro forma* than zealous and active." It is apparent that the accused were not accorded in substance the customary right of counsel in their behalf.

The second part of the opinion proves that this denial of the right to counsel violates the due process clause of the Fourteenth Amendment. It is admitted that before the Declaration of Independence English law did not recognize the right of the accused to counsel, but it is emphasized that twelve of the thirteen colonies definitely established such right. The Court then turns to a more difficult problem. In Hurtado v. California,[49] it was held that the due process clause of the Fourteenth Amendment does not require a grand jury indictment as a prerequisite to trial for felony in a state court. This conclusion was supported by referring to the fact that the Fifth Amendment contains not only the due process clause, but also a specific guarantee of grand jury indictment. Since neither clause may be regarded as superfluous, it must follow that due process of law in the Fifth Amendment was not intended to include the requirement of grand jury indictment. Since the due process clauses of the Fifth and Fourteenth Amendments are interpreted identically, the latter amend-

[48] 287 U.S. 45, 1932. [49] 110 U.S. 516, 1884.

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ment does not impose the grand jury requirement upon the states as part of due process of law. By parity of reasoning, the same result might be reached with regard to the right to counsel. The specific guarantee of that right contained in the Sixth Amendment would negative the idea that the right was included within the due process guarantee of the Fifth Amendment, and consequently, the Fourteenth Amendment.

But this doctrine of the Hurtado case has not always been adhered to. It has been held, for example,[50] that taking private property for public use without just compensation violates the due process clause of the Fourteenth Amendment, although the Fifth Amendment, in addition to its due process clause, explicitly forbids such takings. And in Near v. Minnesota[51] freedom of speech and press were held to be comprised within the guarantee of due process of law, although protected by a special clause of the federal bill of rights. The rule by which these cases are to be distinguished from the Hurtado case is expressed by the Court as follows: "The fact that the right involved is of such a character that it cannot be denied without violating those 'fundamental principles of liberty and justice which lie at the base of all our civil and political institutions,' is obviously one of those compelling considerations which must prevail in determining whether it is embraced within the due process clause of the Fourteenth Amendment, although it be specifically dealt with in another part of the federal Constitution." There is no doubt that the right to counsel in a criminal trial is of this fundamental character. Consequently, the failure of the trial court to give the accused reasonable time and opportunity to secure counsel was a denial of due process, and in view of their obvious inability to secure such counsel, the court's failure to make an effective appointment of counsel was also a denial of due process.

e. Due Process in Taxation. An irrigation district issued bonds for irrigation purposes, and over a period of years the tracts of land comprised therein were assessed in proportion to estimated benefits to meet the accruing obligations. It is held in Roberts v. Richland Irrigation District[52] that there is no deprivation of property without due process of law in imposing upon a landowner within the district a further assessment, admittedly in excess of the actual benefits accruing to his land, in order to meet the deficiencies resulting from the failure of others to pay their assessments and thus make possible the payment of the bonds. Under the state law, all the lands within the district became generally liable for the payment of the bonds and interest. This general liability could be assessed in accordance with estimated benefits, just as it might be assessed in accordance with the actual value of the land. There is no necessity

[50] Chicago, B. & Q. R. Co. v. Chicago, 166 U.S. 226, 1897.

[51] 283 U.S. 697, 1931. For comment, see this REVIEW, vol. 26, p. 270.

[52] 289 U.S. 71, 1933.

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arising under the Fourteenth Amendment that the assessments be limited to the amount of the increased value of the land.

2. Equal Protection of the Laws

In the case of Liggett Company v. Lee,[53] the Supreme Court invalidated several provisions of the Florida chain store tax and remanded to the supreme court of that state the question whether the void sections could be deleted without invalidating the whole statute. The decision in no way overrules or weakens the recent case of State Board of Tax Commissioners v. Jackson,[54] in which license taxes upon chain stores progressively increasing as the number of stores in the chain increased were held not to involve arbitrary classification for taxing purposes. The Florida tax followed the main principle of the Indiana act with one exception. A stated tax per store is levied upon any number of stores in the same ownership chain if they are located within the limits of the same county, but if one or more of them is located in a different county the tax is increased not only on those lying in the other counties, but upon all of the stores. In an opinion by Mr. Justice Roberts, who also wrote the opinion in the Jackson case, this classification based upon location of stores in one or more counties is arbitrary and "finds no foundation in reason or in any fact of business experience." It amounts, therefore, to a denial of the equal protection of the laws. Other questioned provisions of the act were sustained. These included authorization to counties and cities to impose graduated taxes of their own upon chain stores, the levying of higher taxes upon stocks of goods held by retailers than upon those held by wholesalers, and an exemption of gasoline filling stations from the provisions of the act. In an elaborate dissenting opinion, Mr. Justice Brandeis defends the validity of the provision held void by the Court. His view that the discrimination complained of is valid as applied to corporations (and this will be its only application in fact) gives him an opportunity to expound with characteristic fullness and acumen his philosophy as to the social and economic desirability of small business enterprises, the menace of unrestricted corporate growth, and the right of the state to use its taxing power as a weapon directed against excessive "bigness" in the field of corporate organization. The opinion is a document meriting close study. Justices Cardozo and Stone dissent upon the somewhat narrower grounds that the basis of the condemned classification is reasonable.

The familiar doctrine that a municipal corporation may not plead the protection of the Fourteenth Amendment against discriminatory or arbitrary legislation directed against it by the state is applied in Williams v. Baltimore.[55] Here a state statute had exempted for a period of not more than two years from all state, county, and municipal taxes the property

[53] 288 U.S. 517, 1933. [54] 283 U.S. 527, 1931. [55] 289 U.S. 36, 1933

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of the Washington, Baltimore, and Annapolis Railroad Company. The city of Baltimore was held to have no rights under the equal protection clause of the Fourteenth Amendment against such state action. The exemption, being supported by public policy as a means of keeping alive a necessary public utility in serious financial straits, was found to violate no provision of the Maryland constitution.[56]

II. STATE AND FEDERAL RELATIONS

1. State Police Power and Interstate Commerce

In Mintz v. Baldwin,[57] a New York State quarantine order was enforced against cattle brought by the plaintiff into the state from Wisconsin. The New York act permits such importation when the cattle have been certified by the state of origin not only to be free from Bang's disease, but also to have come from herds which are free from it. The plaintiff's shipment did not meet this latter requirement and was rejected. Bang's disease is a highly infectious cattle disease as a result of which undulant fever may be developed by human beings by drinking the milk of an infected cow. The plaintiff alleged the invalidity of the state's action on the ground that it violates the commerce clause by imposing burdens upon interstate commerce with respect to a field already occupied by federal quarantine regulation. The contention is rejected by the Court and the New York regulation sustained. Under the act of 1903 relating to animal quarantine, the Secretary of Agriculture is authorized to establish necessary regulations to prevent the spread of animal diseases. To this end he may establish a system of federal certification of cattle as free from disease, and in cases in which this is done the states are specifically barred from further regulation or from the barring of the certified animals. But this specific limitation on state power is interpreted as evidence of the intention of Congress not to trammel the enforcement of other state quarantine regulations not so forbidden. This view is supported by the action of the Department of Agriculture in informing the state authorities that it had imposed no federal quarantine covering Bang's disease, but was leaving that problem to be dealt with by the various states. It will be recalled that in Oregon-Washington R. & Nav. Co. v. Washington[58]

[56] First National Bank v. Louisiana Tax Commission, 289 U.S. 60, 1933, and Union Bank & Trust Co. v. Phelps, 288 U.S. 181, 1933, both involve questions of equal protection in the field of taxation, and also the application of the federal statutory prohibition against discriminatory taxation of the moneyed capital of national banks. In Seaboard Air Line R. Co. v. Watson, 287 U.S. 86, 1932, it is held that there is no violation of the equality clause of the Fourteenth Amendment in a state statute which creates presumptions of negligence against a railroad which are not put upon motor carriers or other litigants.

[57] 289 U.S. 346, 1933.

[58] 270 U.S. 87, 1926. For comment, see this REVIEW, vol. 21, p. 91.

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it was held that a congressional delegation of power to the Secretary of Agriculture to establish regulations to prevent the spread of plant parasites and diseases in interstate commerce excluded the states from that field of control even though the secretary had not exercised the power given. That case is distinguished from the present one on the ground that the federal statute involved in the earlier case, in contrast to the act of 1903, was so worded as to indicate congressional intention to reserve the entire field of plant quarantine for federal control, to the exclusion of complementary state action.

The case of Bradley v. Public Utilities Commission[59] raised the issue whether a state may constitutionally deny a certificate of convenience and necessity to one seeking to engage in interstate commerce by operating motor vehicles as a common carrier, where the ground of the denial is the increase of the hazard to public safety resulting from traffic congestion on the route proposed to be used. The state's power is upheld by a unanimous Court. First, it appears that there is no specific denial of the right to engage in interstate commerce, but merely to operate over the specific route known as Route 20 from Cleveland to Flint, Michigan. It was not shown that there were not alternative routes available on which congestion did not exist. Secondly, in the absence of congressional control over interstate motor traffic, numerous and far-reaching state regulations affecting such interstate traffic have been upheld as reasonable protections to the public safety. The present state regulation merely adds a new item to this list, since "safety may require that no additional vehicle be admitted to the highway." The state's present purpose of promoting the public safety and its method of using congestion of the highway as the test in granting or withholding the authorization sought distinguishes this case from the earlier cases of Buck v. Kuykendall[60] and Bush & Sons v. Maloy,[61] where the certificates of convenience and necessity to engage in interstate commerce as motor carriers were denied in order to prevent competition with existing transportation facilities. The test in those cases was the adequacy of the existing facilities, and in the realm of interstate commerce the states have no power to exert control for that purpose. The promotion of safety in the earlier cases was purely incidental. In the present case, the finding of congestion on Route 20 is supported by evidence. No denial of the equal protection of the laws results from denying to the plaintiff the privileges not withheld from shipper-owners or from motor carriers licensed before the date of the plaintiff's application. The case indicates a wholesome willingness to support state regulation of all motor traffic necessary to the public interest pending such time as the

[59] 289 U.S. 92, 1933.
[60] 267 U.S. 307, 1925. For comment, see this REVIEW, vol. 20, p. 105.
[61] 267 U.S. 317, 1925.

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federal government may assume direct responsibility over such portion of the traffic as may be interstate.

2. State Taxation and Interstate Commerce

Two cases deal with the question whether a state may validly tax the storage within the state of gasoline subsequently used by its owners as the motive power in interstate commerce. The first of these is Nashville, C. & St. L. R. Co. v. Wallace,[62] which, in its aspects dealing with the declaratory judgment, has been discussed above.[63] A Tennessee tax of two cents per gallon was levied upon all gasoline stored within the state. The plaintiff railroad bought large quantities of gasoline outside the state, brought it in in its own tank cars, and stored it in its own tanks. None of it was sold, but all of it was subsequently withdrawn for use in interstate railway operation in Tennessee and neighboring states. The tax was attacked on the ground that the gasoline was still an article of interstate commerce since it was still in course of movement from points of origin to points outside the state, and on the further ground that the tax was levied upon the railroad's use of the gasoline in its business as an interstate carrier. On both grounds it is alleged to be an unconstitutional burden on interstate commerce. The validity of the tax was, however, upheld by the Supreme Court. It is first pointed out that upon being unloaded and stored, the gasoline ceases to be an article of interstate commerce and becomes merged with the general mass of property in the state. Secondly, the tax is not a burden upon the subsequent interstate commerce in which it is used. While remaining in storage in the state, the gasoline is clearly taxable by the state as property. "The power to tax property, the sum of all the rights and powers incident to ownership, necessarily includes the power to tax its constituent elements." Hence the state may properly tax any right or power incident to the railroad's ownership of the gasoline which falls short of a direct burden upon its use in interstate commerce. The tax here is upon the powers of storage and withdrawal from storage, and these powers are both completely exercised before use in interstate commerce has begun. The tax therefore does not burden that commerce. A similar result is reached in Edelman v. Boeing Air Transport,[64] in which a Wyoming tax upon the "use" of gasoline in the state is held valid as applied to gasoline stored in the state by the transport company and subsequently used by it for the fueling of interstate planes. Storage in the state and later withdrawal from storage constitute "uses" within the meaning of the statute, and for the reasons outlined in the Tennessee case there is no burden imposed thereby upon interstate commerce.

[62] 288 U.S. 249, 1933.
[63] *Supra*, p. 47.
[64] 289 U.S. 249, 1933.

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The familiar doctrine of Brown v. Maryland[65] is given a modern application in Anglo-Chilean Nitrate Sales Corporation v. Alabama.[66] The appellant, a New York corporation, qualified under the state law to do business in Alabama. It imported nitrate from Chile through the port of Mobile. The nitrate is stored in a public warehouse in Mobile in the original packages and is sold in those packages both within and without the state for cash which was immediately sent to New York. The company had no other capital or property in the state and did no other business therein. Under the provisions of a statute authorizing an annual franchise tax on foreign corporations of two dollars per thousand dollars of capital stock, the state assessed this amount upon each thousand dollars worth of nitrate stored in Mobile. By a divided court, it is held that the exaction of this tax amounts to a violation of the clause of the Constitution forbidding state imposts or duties upon imports or exports without congressional consent. As construed by the Alabama court, the statute imposes a tax not upon the right or privilege of doing business within the state, but upon the actual doing of business. The only business which the appellant does in Alabama is the business of importing nitrate into the state in the original packages and the subsequent selling of it in those packages. The right to import, which includes the right to sell the goods in the original packages while they remain the property of the importer, is not subject to state tax. The majority opinion is written by Mr. Justice Butler. A dissenting opinion was filed by Mr. Justice Cardozo, with whom Justices Brandeis and Stone concur. Their position is that the corporation had solicited and received from the state the right to do local business therein and that even though it had not availed itself of that privilege, it was reasonably obligated to pay a tax upon the enjoyment of it.

In Detroit International Bridge Co. v. Corporation Tax Appeal Board,[67] the bridge company sought to escape the payment of a state franchise tax upon its right to transact business in the state on the ground that it was engaged only in foreign commerce in its operation of the international bridge between Detroit and Ontario. Its claim to immunity was rejected, however, on the ground that its corporate charter contains a provision specifically authorizing it to engage in the business of buying and selling real and personal property in Michigan and elsewhere. Upon this right to do local business it may properly be required to pay a tax to the state.

3. State Taxation of Federal Instrumentalities

In two cases, immunity from state taxation was unsuccessfully pleaded on the ground that the tax in question burdened instrumentalities of the

[65] 12 Wheaton 419, 1827. [66] 288 U.S. 218, 1933.
[67] 287 U.S. 295, 1932.

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federal government. In Indian Territory Illuminating Oil Co. v. Board of Equalization,[68] a state ad valorem tax on personal property is levied on oil owned by the petitioner which constitutes his share of the oil he had produced from restricted Indian lands in Oklahoma under leases approved by the Secretary of the Interior. The oil had been merged with other oil from commercial or unrestricted properties. At the time of its removal, the petitioner paid to the Indian owners a royalty upon the gross proceeds. The Indians do not own the oil taxed, nor will they receive any further royalty from it. The oil is held not to be so identified with the petitioner's functions as a government instrumentality as to entitle it to exemption. The case is distinguished from Jaybird Mining Co. v. Weir,[69] in which a tax upon ores mined from restricted Indian lands was held void on the ground that the tax was assessed on the ores in the mass before the Indian royalties had been segregated and paid. In the present case, Chief Justice Hughes declares: "There is a recognized distinction between a non-discriminatory tax upon the property of an agent of government, albeit the property is used in, or has relation to, the business of the agency—where there is only a remote, if any, influence upon the exercise of the functions of government—and a tax which is deemed to impose a direct burden upon the exertion of governmental powers."

In Broad River Power Co. v. Query,[70] the plaintiffs were engaged in generating electric current at a power plant constructed and operated under a license from the Federal Power Commission pursuant to the Federal Water Power Act. A South Carolina tax upon the production and sale of electric current is attacked as a denial of equal protection of the laws and as an unconstitutional tax on a federal agency. The validity of the tax is sustained. There is no arbitrary discrimination involved in taxing the production of electric current by water and steam power but not its production by other methods. It is a reasonable classification to single out for special levies the hydro-electric plants utilizing the waters of the state and their principal competitors. In generating and selling the current, the plaintiff is not acting as a federal agent. It enjoys a privilege from the federal government, but this is not a privilege to be exercised on behalf of or for the benefit of the federal government. The tax does not fall upon the license received from the government. "The tax is not upon the exertion of, and cannot be said to burden, any governmental function." This follows the same principle as that laid down in Fox Film Corporation v. Doyal.[71]

[68] 288 U.S. 325, 1933.
[69] 271 U.S. 609, 1926. For comment, see this REVIEW, vol. 21, p. 93.
[70] 288 U.S. 178, 1933.
[71] 286 U.S. 123, 1932. For comment, see this REVIEW, vol. 27, p. 56.

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First Session of the Seventy-third Congress, March 9, 1933, to June 16, 1933.[1] The meeting of the Seventy-third Congress five days after President Roosevelt's inauguration marked the twenty-fifth time in our history that a special session has been called. Critical times have been faced before and remedial measures found, but the hundred days of this session are unparalleled for the speed and discipline with which Congress was brought to face and finish its task, for the political adroitness and firmness of the presidential leadership, and for the extraordinary importance and far-reaching effects of the legislation enacted. With the substantive merits and contents of the measures passed we are not concerned here, but in this session the legislative process is as worthy of consideration as the legislative product.

That the President was prepared, if necessary, to upset the "normal balance of executive and legislative authority" he made clear in his inaugural address. The Chief Executive became the chief law-maker. He applied to Congress the "discipline and direction under leadership" that he saw demanded in the popular mandate of his election. Protests against the assumption of dictatorial powers were overridden by the necessity of "broad executive power" for meeting emergency conditions. The oft-reiterated challenge of unconstitutionality the President had sought to forestall when he said on assuming office: "Our Constitution is so simple and practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without loss of essential form." As the session proceeded, many so-called "essential forms" became essentially empty formalities. The President had become a prime minister.

To the public's demand for action, and to the President's readiness to lead Congress, must be added that factor necessary for success—a majority party support in both houses; 312 Democrats to 117 Republicans and 5 Farmer-Laborites[2] assured an overwhelming majority in the House of Representatives. With the aid of the progressive western Republicans, the Democrats in the Senate had a safe working majority for most measures. There were 59 Democrats, 36 Republicans, and 1 Farmer-Laborite. A common party label was no guarantee of unquestioning loyalty from the rank and file, but it did give the President control of the party organization. He was thus able in large measure to direct the deliberations of Congress.

[1] For notes on the 72nd Congress, 2nd Session, see this REVIEW, Vol. 27, p. 404, and for the 1st Session, Vol. 26, p. 846. For notes prepared by Arthur W. Macmahon on the 71st Congress, see Vol. 24, pp. 38 and 913, and Vol. 25, p. 932. For notes on the 70th Congress, see Vol. 22, p. 650, and Vol. 23, p. 364; and on the 69th Congress, Vol. 20, p. 604, and Vol. 21, p. 297.

[2] There was one vacancy.

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PARTY ORGANIZATION IN THE SEVENTY-THIRD CONGRESS, SPECIAL SESSION

House Democrats

Rainey, H. T., Ill., Speaker
Byrns, J. W., Tenn., Majority Floor Leader
Cullen, T. H., N.Y., Assistant Majority Floor Leader
Greenwood, A. H., Ind., Whip
Pou, E. W., N.C., Chairman Rules Committee

Assistant Whips (from regional districts):

Rogers, W. N., N. H.
Mead, J. M., N. Y.
Haines, Harry, Pa.
Flannagan, J. W., Jr., Va.
Green, R. A., Fla.
Montet, N. F., La.
Miller, J. E., Ark.
Randolph, Jennings, W. Va.
Weideman, C. M., Mich.
Parsons, C. V., Ill.
Biermann, Fred, Iowa
Johnson, Jed, Okla.
Johnson, L. A., Tex.
Lewis, Lawrence, Colo.
Lloyd, Wesley, Wash.

Steering Committee:

Drewry, P. H., Va.
Rayburn, Sam, Tex.
Connery, W. P., Jr., Mass.
Boland, P. J., Pa.
Larrabee, W. H., Ind.
Hill, Lister, Ala.
Gregory, W. V., Ky.
Sabath, A. J., Ill.
Hastings, W. W., Okla.
Hill, S. B., Wash.
Cox, E. E., Ga.
Lozier, R. F., Mo.
Boylan, J. J., N. Y.
Taylor, E. T., Colo.
Pou, E. W., N. C.
Lea, C. F., Calif.
Crosser, Robert, Ohio

Committee on Committees:

Pou, E. W., N. C.
Bankhead, W. B., Ala.
O'Connor, J. J., N. Y.
Sabath, A. J., Ill.
Greenwood, A. H., Ind.
Cox, E. E., Ga.
Driver, W. J., Ark.
Smith, H. W., Va.

Lea, C. F., Calif., Chairman Democratic Caucus

House Republicans

Snell, B. H., N. Y., Minority Floor Leader
Englebright, H. L., Calif., Whip
Hooper, J. L., Mich., Assistant Whip
Martin, J. W., Mass. Assistant Whip
Wolfenden, James, Penn., Assistant Whip

Steering Committee:

Darrow, G. P., Pa.
Treadway, A. T., Mass.
Cooper, J. G., Ohio
Britten, F. A., Ill.
Thurston, Lloyd, Iowa
Hope, C. R., Kans.
Carter, Vincent, Wyo.
Engelbright, H. L., Calif
Ransley, H. C., Pa.
Martin, J. W., Jr., Mass.
Mapes, C. E., Mich.
Lehlbach, F. R., N. J.

Committee on Committees:

Carter, A. E., Calif.
Merritt, Schuyler, Conn.
Britten, F. A., Ill.
Dowell, C. C., Iowa
Guyer, U. S., Kans.
Beedy, C. L., Me.
Treadway, A. T., Mass.
Mapes, C. E., Mich.
Knutson, Harold, Minn.
Tobey, C. H., N. H.
Bacharach, Isaac, N. J.
Parker, J. S., N. Y.
Sinclair, J. H., N. Dak.
Cooper, J. G., Ohio
Mott, J. W., Ore.
Darrow, G. P., Pa.
Taylor, J. W., Tenn.
Gibson, E. W., Vt.
Frear, J. A., Wis.
Carter, Vincent, Wyo.

Luce, Robert, Mass., Chairman Republican Conference

Senate Democrats

Pittman, Key, Nev., President Pro Tem.
Robinson, J. T., Ark., Majority Floor Leader
Kendrick, J. B., Wyo., Assistant Majority Floor Leader
Lewis, J. H., Ill., Whip
Black, H. L., Ala., Secretary
Copeland, R. S., N. Y., Chairman Rules Committee

Steering Committee:

Robinson, J. T., Ark.
Fletcher, D. U., Fla.
Ashurst, H. F., Ariz.
Sheppard, Morris, Tex.
King, W. H., Utah
McKellar, Kenneth, Tenn.
George, W. F., Ga.
Copeland, R. S., N. Y.
Wheeler, B. K., Mont.
Bratton, S. G., N. Mex.
Tydings, M. E., Md.
Kendrick, J. B., Wyo., Ex off.
Lewis, J. H., Ill., Ex off.
Black, H. L., Ala., Ex off.
Smith, E. D., S. C.

Senate Republicans

McNary, C. L., Ore., Minority Floor Leader
Fess, S. D., Ohio, Assistant Minority Floor Leader
Vandenburg, A. H., Mich., Whip

Committee on Committees:

Reed, D. A., Pa., Chairman
Nye, G. P., N. Dak.
Capper, Arthur, Kans.
Hastings, D. O., Del.
Couzens, James, Mich.
Steiwer, Frederick, Ore.
Hebert, Felix, R. I.
Patterson, R. C., Mo.
Carey, R. D., Wyo.

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Policy Committee:

Robinson, J. T., Ark.
Harrison, Pat, Miss.
Pittman, Key, Nev.
Glass, Carter, Va.
Walsh, D. I., Mass.
Dill, C. C., Wash.
Barkley, A. W., Ky.
Wagner, R. F., N. Y.
Connally, Tom, Tex.
Bulkley, R. J., Ohio
Byrnes, J. F., S. C.
Gore, T. P., Okla.
McAdoo, William G., Calif.

Committee on Legislation:

Vandenburg, A. H., Mich.
Goldsborough, P. E., Md.
Austin, W. R., Vt.
Townsend, J. G., Jr., Del.
Hatfield, H. D., W. Va.
Robinson, A. R., Ind.
Hale, Frederick, Me.
Johnson, H. W., Calif.
Dickinson, L. J., Iowa

Patronage Committee:

Hayden, Carl, Ariz.
Barkley, A. W., Ky.
Pittman, Key, Nev.

Patronage Committee:

Metcalf, J. H., R. I.
Keyes, H. W., N. H.
Frazier, L. J., N. Dak.

This was no small power as exercised by Mr. Roosevelt. He displayed remarkable skill in manipulating the attention of Congress and of the public. His messages to Congress were strategically timed and positive and specific in character. Disagreement with his proposals was interpreted by the general public as obstructionism. His swift pace, his boldness in assuming responsibility, and his definite recommendations not only stimulated popular support of his policy, but likewise branded as dissenters and critics congressmen holding to different policies. His radio talks to the nation served the double purpose of reassuring the people and breaking down resistance in Congress. Legislators were made only too well aware of the temper of their constituents.

Congressmen of both parties were willing to follow the President's lead, and he managed his congressional relations with great tact. At the end of the session, he was able to thank both houses for a "spirit of teamwork" between the legislative and executive branches that in most cases "transcended party lines" and made possible "more whole-hearted cooperation" than had been witnessed in "many a long year." Of course the pressure of the emergency and the solid public support behind the President must be understood as modifying normal relations, but even when this is allowed for a full weight of political sagacity remains to account for the satisfactory contacts with Congress.

Party Organization. The attitude of the Republicans was indicated when, following a caucus meeting on February 28, Floor Leader Snell declared: "Our policy will be to stand squarely behind the Democratic Administration in support of legislation to better conditions." Symptomatic of the temper of Republicans in the Senate was their refusal to support Senator Reed's proposal that they bar from committee assignments those who bolted the Hoover ticket. They had no mind to excommunicate Johnson, Cutting, LaFollette, and Norris.

The Democrats in the Senate set up their steering committee, and also the policy committee which was now established as a permanent body. It was in the House, however, that the most interesting develop-

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ments took place. The organization of the party here was the result of a "trade" among rival aspirants for office. Before the caucus met on March 2, an "understanding" had been arranged among the several candidates for the speakership. John McDuffie of Alabama, the chief contender that Henry T. Rainey of Illinois had to face, was disposed of by an agreement among his rivals. Joseph W. Byrns of Tennessee withdrew in favor of Rainey, thereby gaining the latter's support in winning the floor leadership. The New York delegation lent its aid to Byrns and Rainey when the Tammany candidate for speaker was made assistant floor leader. Texas brought its bloc of votes to aid the "combine" when Byrns supported James P. Buchanan of Texas as his successor to the chairmanship of the Appropriations Committee. McDuffie was replaced as party whip by Arthur H. Greenwood of Indiana, and a Californian, Clarence F. Lea, was elected permanent chairman of the Democratic caucus.

Could the nation-wide Democratic strength be consolidated in the organization of the House? Party positions of strategic importance were distributed among leaders from pivotal states. Support from the Ohio and New York delegations helped elect as speaker the first northern Democrat in over fifty years. The vote was 166 to 112. Discontent had been expressed with the alleged disproportionate influence of southern members, and in the last congress concessions were made to Tammany in committee assignments. Speaker Garner, it was thought, had not consulted the Democratic membership, and dissatisfaction with his policy strengthened the opposition to McDuffie. A markedly different attitude was taken by the new leadership.

They professed a desire to secure the free coöperation of the members. If the Democratic majority of 191 was to prove effective, harmony was necessary. Yet the presence of over 150 new members, bringing novel proposals for national salvation and knowing little of legislative problems, complicated the situation. The critical economic conditions made it essential that the House be organized for prompt and united action and that it respond to the leaders. The caucus helped to answer this need. It was useful in canvassing opinions, but the wide numerical margin of the majority party made severe regimentation avoidable in many individual cases.

The creation of a Democratic steering committee was forecast by the election of Speaker Rainey. Garner had opposed a steering committee as an undesirable limitation on his powers. Disagreement on this point appeared in the last Congress. Rainey's advocacy of this committee was considered a leading factor in his selection as speaker, particularly in view of the large number of Democrats coming from states previously Republican. The House was organized on an entirely new basis, in the opinion of the new speaker. The object of this innovation was to keep the

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party together and to ascertain the degree of party support for the Democratic program. "It is a long step forward," Rainey declared, "and it takes from the speaker power he has arbitrarily exercised and gives it back to the House. Failures in the last Congress have been due to the fact that the determination of policies has come entirely from the speaker's chair; it will now come from the party. We will put over Mr. Roosevelt's program."

Unwittingly, the speaker seemed to touch the significant factor in the scheme of Democratic organization. The possible contradiction of party policies and presidential program was resolved by the speaker's easy identification of the two. Independent party leadership among the House Democrats was rendered well-nigh impossible by the plan of party organization. Responsibility for control was lost in the search for harmony. The President stood clear of this intertwining confusion of party agencies. The system was well adapted to carrying out his commands, but poorly devised for independent control by the party officials in the legislature.

The steering committee was composed of one representative each for the 15 districts into which the country was divided.[2] As ex-officio members were added the speaker, the whip, the majority floor leader, and the chairman of the caucus. The delegations from a given district elected one of their number to represent them on the steering committee. Since the speaker had sponsored the establishment of this committee, he could not very well ignore its existence or attempt to override it. Yet coherent steering could not be attempted with 19 pilots at the helm.

That the party organization was better designed for carrying out orders from above than for initiating policies was emphasized by the increased importance of the whips. Especially did the new members need direction and advice. Chief Whip Greenwood accordingly named assistant whips for the regional divisions identical with the steering committee districts. These lieutenants were liaison officers between the party officials and the Democratic delegations from the states in their district. Each whip was answerable for the members of the party from his region. The chief whip consulted regularly with the speaker and the floor leader and met with the steering committee; he instructed his assistants at weekly conferences. The whip characterized his task as one of "benevolent persuasion." The great party majority permitted him on occasion to relax

[2] These districts, with their representatives, were as follows: (1) Me., N. H., Vt., Mass., R. I., Conn.—*Connery;* (2) N. Y.—*Boylan;* (3) Pa., N. J., Del.—*Boland;* (4) Va., Md., N. C.—*Drewry;* (5) S. C., Ga., Fla.—*Cox;* (6) Ala., Miss., La.—*Hill;* (7) Ky., Tenn., Ark.—*Gregory;* (8) O., W. Va.—*Crane;* (9) Mich., Ind.—*Larrabee;* (10) Wis., Ill., *Sabath;* (11) Mo., Ia., Minn.—*Lozier;* (12) Kan., Neb., N. D., S. D., Okla.—*Hastings;* (13) Tex.—*Rayburn;* (14) Colo., Mon., Ida., Utah, Wyo., Nev., Ariz., N. Mex.—*Taylor;* (15) Wash., Ore., Cal.—*Hill.*

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discipline where a congressman had made prior commitments. Here was a systematic arrangement for passing along orders, for checking votes and attendance, and for canvassing the opinions of the members.[3]

The Democrats thus developed in this Congress an elaborate structure for party control, but placed no one at the top. The more separate agencies were set up, the less likely was unified and responsible action, since no principle of hierarchy established a definite relationship of subordination to leadership. Members attempted to commit the party by working through the caucus. The steering committee, ostensibly representative, was an intermediary between caucus and leaders. Symbolizing a transfer of powers from the speaker to the members, the committee was not properly composed for executive action. Its functions became "advisory." Those holding the titular positions of command in the party organization attained to office by a close trade rather than a clear victory. They exhibited their power through control of legislative procedure rather than through their influence over their fellows.

Party control in this Congress must be discussed in terms of presidential leadership. It was well that the President's wishes and the party program were regarded as identical in the minds of Rainey and his confrères. His authority to dictate policy was unquestioned and the machinery for aligning the members behind his measures fortunately was at hand.

The critical tension of the banking crisis made it imperative at the very first meeting of the new Congress that the President's guidance be accepted without hesitation. Majority Floor Leader Byrns, requesting "unanimous consent," introduced the emergency banking act with debate limited to 40 minutes. Minority Floor Leader Snell stated: "The house is burning down, and the President of the United States says this is the way to put out the fire." He asked for Republican support. The House had not yet adopted rules of procedure; the bill was not available in printed form; the members were acquainted with its contents by the reading clerk. But leaders of the House and Senate had met with the President the night before and had promised to expedite the measure. The bill passed the House without a record vote, received the approval of the Senate a few hours later, and was promulgated by the Chief Executive the same evening.

The next morning, March 10, the House received the President's message requesting authority for making drastic economies by cuts in the salaries of government employees and in the compensation of ex-service

[3] Minority Floor Leader Snell named a steering committee on March 25 and retained intact his system of chief whip, assistant whips, and "key men" in each delegation. Keeping the steering committee in operation when in the minority was an innovation.

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men.[4] "For three long years the Federal government has been on the road toward bankruptcy," the President stated. "For the fiscal year 1934, based on the appropriation bills passed by the last Congress and the estimated revenues, the deficit will probably exceed $1,000,000,000 unless immediate action is taken." On proposal of the majority floor leader, a special economy committee was created to act upon the President's message for the sake of "quick action" and to avoid waiting until the formation of the standing committees. The reports of this committee were given privileged status, and its jurisdiction was limited to the President's economy proposals.

But the Democratic rank and file likewise wished to discuss fiscal policy. "I wish respectfully to suggest to our leader," said Representative Woodrum, . . . that he take the whole matter of the President's message into our family caucus and let us very frankly and freely consider it and discuss it." The caucus met the next morning and trouble began. The leaders were divided among themselves. Speaker Rainey was unable to align two-thirds of the members behind the President's economy bill, and it was with difficulty that the caucus was kept from agreeing to support the Browning amendment, a measure designed to emasculate the economy program. Immediately following this heated caucus, which ended in discord, the measure came before the House.

Despite the rebellious faction within their party, the leaders desired to pass the bill at once. In the caucus they had only their influence, but in the House they had more effective weapons. There, strong psychological conditions were in their favor, and a different atmosphere prevailed. Democrats who had viewed the bill unfavorably in secret caucus changed their viewpoint in the open debate, and the Democratic leaders found their hands strengthened by Republican support and by public approbation of the Administration's position. "When the *Congressional Record* goes to President Roosevelt's desk in the morning," one of them asserted, "he will look over the roll call we are about to take, and I warn you new Democrats to be careful where your names are found." Hisses and groans greeted this admonition, but the point struck home.

The party leaders had a more tangible weapon in their control over procedure, and they used it with great skill. A special rule for bringing up the economy measure was inexpedient because such a rule must "lie over" a day unless passed by a two-thirds vote, and such a majority was lacking. The House parliamentarian advised the leaders that the desired immediate action could be had, strangely enough, by simply following the "regular order." This was possible since the calendars were clear, no standing committees had been appointed, and there was no business

[4] A recapitulation of appropriations is omitted for lack of space. For statistics, consult Sen. Doc. 35, 73rd Cong., 1st Sess., pp. 600–602, 672–678.

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before the House wherewith obstructionists could effectively delay action. This procedure was a masterpiece of simplicity and directness without precedent in Congress in many years. After the opening prayer and approval of the minutes, the House proceeded at once to the orders of the day. The floor leader introduced a resolution providing that debate on the economy bill be limited to two hours and ruling out amendments. It was hoped that the amendment that had disrupted the caucus could thus be kept out of the House. Representative Browning proved too experienced a parliamentarian to be thrust aside so easily. He saw that even under the resolution it would be in order for an opponent of the bill to offer a motion to recommit the bill to committee. An opening for amending the measure appeared in possible instructions to this committee. It was up to the Democratic leaders to forestall Representative Browning. How could the leader of the pro-veteran rebels be prevented from crippling the economy bill by his limiting amendment? A loophole was seen in a motion sponsored by Representative Connery of Massachusetts. This champion of the veterans wished to kill the economy bill entirely by returning it to committee without instructions. The leaders grasped this slender chance, for Connery's motion made possible a vote to recommit *without any modifying amendment.* The speaker used his right to recognize with decisive effect. Connery was called upon, Browning ignored. When the latter insisted that his amendment deserved recognition "after what occurred in the caucus this morning," the speaker coldly rejoined that the House had no knowledge of the caucus.

Many others were likewise willing to forget that disrupted party meeting. The Connery motion was defeated (ayes 90, noes 272) as the leaders had anticipated, and a roll call was at once requested on the bill, despite a roar of Democratic protest. The measure was passed by 266 (Dem. 197, Rep. 69) to 138 (Dem. 92, Rep. 41, F.-L. 5). Among the Democrats voting against the bill were the assistant floor leader, two members of the steering committee, and four of the party whips. If the Republicans had not crossed the aisle to support the President, his bill would have faced defeat.

Despite support from the President, the public, and even the opposition party, the party leaders had to exercise all their ingenuity in parliamentary procedure to put their measure through. A special rule, the right of recognition, and a roll-call of names helped to out-maneuver the veterans' *bloc* in the House and frustrate the demands of this special interest. Income tax payments, moreover, were just falling due, and the public desire for genuine economies in government was evident. On Sunday, March 12, the President made an effective appeal to the nation over the radio, and Congress was held under close scrutiny.

When the economy bill was reported to the upper house on Monday,

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after a bitter struggle in the Finance Committee, senators took the opportunity to make general acknowledgments of letters too numerous to be handled by their clerical forces. "Bear in mind that the vast army comprising the unorganized majority is thoroughly aroused over reckless government expenditures and will not tolerate submission to organized minority groups." This quotation from one such message reflected the tenor of many others.

The American Legion did not give up the fight, but offered to accept a flat 25 per cent reduction in veterans' compensation. Senate leaders saw in this proposal an attempt to revive the Browning amendment and force a compromise. They were aware that the propaganda mills were grinding as the telegrams poured into their offices. As a protection from this lobbying, some senators insisted upon being bound to support the bill by a caucus vote. But the caucus, while endorsing the bill, declined to be bound against amendments. This gave the obstructionists their chance, and a long debate resulted. The opposition came not from the Republican leaders, but from a *bloc*, and the delay was vigorously deplored in view of the critical state of the government's finances. The granting of dictatorial powers to the President was defended on the ground that "Congress had abdicated its functions by its failure to act." The worst political crime of the time was inaction.

The President saw this and skillfully used it as a lever to move Congress. The very day on which the Senate was to consider the economy bill, he sent his brief, dramatic message recommending immediate modification of the Volstead Act. The public demand for economy was excelled only by its thirst for beer. The pressure upon the Senate for early action was more than that dilatory body could withstand. Two days after its introduction, the economy bill was passed, and on the day following beer was legalized.

The House, torn by the party disagreement over the veterans' reductions, came together behind the terse beer message so clearly based upon the Democratic platform pledge. The President displayed his shrewd political sense by uniting his party at once upon this popular measure. House leaders were planning to adjourn and await the Senate's action on the economy bill when a telephone call from the White House apprised Speaker Rainey of the President's message. The air was cleared and the congressmen voted with alacrity.

The President's Program. Under the duress of crisis, the President had seen three important enactments completed in record time. But the pace was bound to slacken. On March 20, aroused by increasing opposition to the farm relief bill and by uneasiness in Congress over the contemplated program of permanent legislation, the Chief Executive invited leaders of both parties to a "friendly chat" at the White House. Measures relating

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to the railroads, banking, power, and farm relief were discussed. The director of the budget, and the chairman of the Interstate Commerce Commission participated, together with chairmen of important congressional committees. Minority party leaders from both houses were present, as well as their colleagues of the majority side. This was but one of many meetings in which the Chief Executive brought administrative and legislative leaders together. Consultation with Republicans was, however, exceptional, and members of the minority party were generally uninformed as to the Administration's plans. The President worked in very close touch with Democratic leaders throughout the session and kept them fully informed as to his position on pending legislation. When a message was read to Congress, an administrative spokesman had ready for immediate presentation a bill covering the proposals made. No major question was raised without concrete recommendations being offered.

Presidential planning meant considering in turn the pressing needs of particular classes and industries. After the banking crisis had been met, an economy program agreed upon, and the Volstead Act amended, the problems of agricultural distress and unemployment were faced. The President put through an emergency farm mortgage act to provide for refinancing and a farm relief bill to control the production and price of important agricultural commodities. He recommended federal grants to the states for direct unemployment relief, and Congress authorized the Reconstruction Finance Corporation to make available $500,000,000 through the Federal Emergency Relief Administration. A bill establishing a civilian conservation corps was passed through Congress in ten days and without a record vote. The two-year limitations in both of these enactments indicated their emergency character. In the Wagner bill, sponsored by Secretary of Labor Perkins, a United States employment service was established as a regular division of the Department of Labor. A bill providing for federal supervision of interstate traffic in investment securities was recommended by the President as "but one step in our broad purpose of protecting investors and depositors."

In a message of May 4, the President urged emergency railroad legislation whereby a coördinator of transportation would be authorized to "encourage, promote, or require action on the part of carriers, in order to avoid duplications of service, prevent waste, and encourage financial reorganizations." Mr. Roosevelt recommended repeal of the recapture provisions of the 1920 Transportation Act and the regulation of railway holding companies by the I.C.C. A bill combining emergency measures with permanent legislation passed Congress without a record vote, and with a one-year limitation on the emergency provisions. Experience gained under this plan of coördination, the President thought, would "greatly assist the government and the carriers in preparation of a more comprehensive

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national transportation policy at the regular session of Congress in 1934." It is noteworthy how schemes for immediate relief were joined with more far-reaching plans and the impetus of the emergency used to initiate policies of future significance. Measures were put through this Congress with little difficulty that had been turned down repeatedly in previous sessions. Establishing the Tennessee Valley Authority for Muscle Shoals is a case in point. In bringing this proposal before Congress, the President stressed the need for broad social planning. "It is time," he wrote, "to extend planning to a wider field, in this instance comprehending in our one great project many states directly concerned with the basin of one of our greatest rivers. If we are successful here, we can march on, step by step, in a like development of other great natural territorial units within our borders." Three days later, the President was suggesting emergency legislation to protect small home owners from foreclosure. While Mr. Roosevelt's "planning" appeared opportunistic in the miscellaneous assortment of his measures, and in the need of the hour which dictated them, more legislation with long-term significance was enacted under the pressure of emergency need than Congress seemed to realize.

The following table indicates the promptness with which Congress acted upon the President's proposals. The only important bill enacted during the session which did not originate in the White House was the Glass-Steagall banking act.

Number of bill	*Title*	*Proposed by President*	*Passed House*	*Passed Senate*	*Date approved*	*No. of law or resolution*	*Hours of general debate in House*
H. R. 1491	Emergency banking relief	Mar. 9	Mar. 9	Mar. 9	Mar. 9	1	40 min.
H. R. 2820	Maintenance of government's credit (economy bill)	Mar. 10	Mar. 11	Mar. 15	Mar. 20	2	2
H. R. 3341	Permit and tax beer	Mar. 13	Mar. 14	Mar. 16	Mar. 22	3	3
H. R. 3835	Emergency agricultural relief; farm mortgage; currency issuance and regulation	Mar. 16	Mar. 22	Apr. 28	May 12	10	5½
S. 598	Unemployment relief (reforestation)	Mar. 21	Mar. 29	Mar. 28	Mar. 31	5	5
H. R. 4606	Federal emergency relief	Mar. 21	Apr. 21	May 1	May 12	15	2
H. R. 5980	Supervision of traffic in securities	Mar. 29	May 5	May 8	May 27	22	5
H. R. 5081	Muscle Shoals and Tennessee Valley Authority	Apr. 10	Apr. 25	May 3	May 18	17	6
H. R. 5240	Relief of small home owners	Apr. 13	Apr. 28	June 5	June 13	43	1½
S. 1580	Railroad reorganization and relief	May 4	June 5	May 27	June 16	68	3
H. R. 5755	Industrial recovery; public construction and taxation	May 17	May 26	June 9	June 16	67	6

In the case of the farm relief bill, the President suggested farm mortgage relief on April 3, and on April 19 he brought forward his inflation proposal. He proposed federal control of the oil industry on May 20, and invalidation of the gold clause on May 26.

The Rules Committee held the House to the strictest limitations in discussing legislation. Special rules directed the consideration of all the important legislation of the session except for the extraordinary procedure provided for the emergency banking and economy acts. A sense of griev-

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ance among the members was voiced in complaints that the Rules Committee treated the membership without courtesy or consideration; that committees reported bills without critical deliberation; that members were expected to vote upon measures when no printed copies were available for study, and when even those sponsoring a measure could not adequately explain the terms of their bill; and that the leaders, when the House was organized, had promised to give the membership an opportunity to participate in the direction of policy and had failed to do so. "Now," asserted one member, "we are nothing but rubber stamps!"

Actual rebellion against this tight party control appeared when the leaders suggested abrogating the liberal discharge rule. Fifty-nine Democrats, including the leaders of the inflation and veterans' bonus *blocs*, held a rump caucus to protest against changing the rule. Party leaders were confident that they could secure enough votes to raise the required number of signatures on a discharge petition from 145 to 218. They could thus prevent a minority from bringing up for discussion issues embarrassing to the administration. The protestors withdrew when they saw the determined disapproval of the leaders. The latter decided not to force the issue, although they had enough votes to change the rule. "As a matter of fact," said Speaker Rainey, "the minute anybody starts a discharge petition, we can have the committee bring in the bill with an adverse report, and that will end it." The appearance of harmony was restored within the party. It was more important to strive for agreement upon the legislation pending than to start a fight over rules. Despite occasional complaints, the Democratic majority supported all the Administration's bills in the House. The table on the opposite page reveals the political alignment on important measures when roll calls were taken.

Much partisan disagreement occurred over invalidation of the gold clause, inflation, and farm relief. In fact, a good deal of light is cast upon the legislative process in this Congress by following the course of the farm relief bill. This measure was drafted in accordance with principles set forth by spokesmen for leading farm organizations. The President consulted with the Secretary of Agriculture and the chairmen of the House and Senate committees on agriculture. Secretary Wallace conferred at length with agricultural leaders and with the processors of farm products. The bill was written by the President's advisers, guided in large part by these conferences. The presidential office offered enough "resistance" to serve as a rallying point. Compromises among conflicting interests were made here. It was feared that Congress would give way to the demands made by opposing forces, with resultant delay and confusion. Through the Chief Executive, ideas could be gathered, differences adjusted, and support focussed upon a definite line of policy. The duty of Congress was to follow, not to interfere.

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The farm relief bill was brought forward under the jurisdiction of the Rules Committee. Four hours of debate were allowed, but all points of order against the bill were waived and any amendment prohibited. Minority Floor Leader Snell complained ruefully: "There has always been a sugar coating on any rule that I ever brought in." The Democrats pointed out that their knowledge of "gag rules" had been gained under Republican tutelage. The measure was frankly jammed through the House, and congressmen were requested not to tamper.

PRINCIPAL RECORD VOTES IN HOUSE

Subject	*Designation*	*Date*	*Total vote (including Farmer-Labor)*	*Democratic vote*	*Republican vote*
			Yea-Nay	Yea-Nay	Yea-Nay
Bills:					
1. Provision for general governmental economies (Economy bill)	HR 2820	Mar. 11	266–138	197–92	69–41
2. Legalization and taxation of beer (Beer bill)	HR 3341	Mar. 14	316– 97	238–58	73–39
3. Provision for farm aid, mortgage refinancing, and inflation (Agricultural Adjustment bill)	HR 3835	Mar. 22	315– 98	272–24	39–73
4. Provision for direct unemployment relief (Emergency Relief bill)	HR 4606	Apr. 21	331– 42	252–12	74–30
5. Operation of Muscle Shoals and development of Tennessee Valley					
Original bill	HR 5081	Apr. 25	306– 91	284– 2	17–89
Conference report	HR 5081	May 17	259–112	245–28	11–84
6. Provision for public works and industrial control (Industrial Recovery bill)	HR 5755	May 26	325– 76	267–25	54–50
7. Continuation of gasoline tax, reduction of postage, and change in electricity tax	HR 5080	Apr. 20	313– 45	256– 0	53–45
8. Appropriation for emergency projects (Fourth Deficiency bill)	HR 6034	June 10	287– 84	258– 8	24–76
Resolutions:					
1. Grant to President of arms embargo power	HJ Res. 93	Apr. 17	253–109	243–22	9–83
2. Invalidation of gold standard clause	HJ Res. 192	May 29	283– 57	250– 9	28–48
Amendments:					
1. Elimination of Civil Service requirement (Emergency Relief bill)		Apr. 21	215–161	215–51	0–105
2. Inflation of currency (Agricultural Adjustment bill)		May 3	307– 86	273– 7	30–79
3. Provision for price-fixing at cost of production (Agricultural Adjustment bill)		May 9	109–283	82–201	22–82
4. Imposition of 2½ per cent sales tax (Industrial Recovery bill)		May 26	137–265	64–228	73–32
5. Exemption of publicly-owned power plants from electricity tax (Gas Tax bill)		June 9	196–181	155–113	36–68
6. Provision for moderate increases in veterans' compensation (Independent Offices Appropriation bill)		June 10	243–154	218–69	25–80
7. Application of gold clause invalidation to future contracts only (Gold clause resolution)		May 29	78–263	15–244	63–14
Motion:					
1. Recommitment of Municipal Bankruptcy bill (HR 5950)		June 9	172–191	83–175	86–15

Complaints of dictatorship were raised more often against the strict control of the legislative process than over the grant of wide powers to the Chief Executive. "A few days ago we gave the power of dictatorship to the President of this nation over the bankers of the country," remarked Representative Fuller. "Why should we refuse a dictatorship to the Secretary of Agriculture under the leadership of this same President for the farming industry of the country." But many members were irked by the slight influence upon legislation permitted them. "It seems that our only

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function here in the House is to act as "yes men," plaintively remarked a Kansan Throttlebottom. The bill passed the House on March 22. According to Representative Wadsworth, it passed through the House as through a funnel, with the task of careful consideration left to the Senate. "The idea of voting for anything in the House with the hope that it will be perfected in another body does not appeal to me," another congressman complained.

The Senate was not so amenable as the House, and in the debate on the farm relief bill serious disagreement appeared. Attempts were made to extend the provisions of the bill to other than staple products, to provide for veteran payments, and to remonetize silver. Contrary to administration policy, the Senate included a cost-of-production scheme for protecting the price of certain enumerated farm commodities. Democratic senators divided 28 to 27 in favor of this provision, which was later reluctantly withdrawn in conference after the House had voted to stand by the Secretary of Agriculture in his opposition to the plan. The Democrats again split on an amendment offered by Senator Wheeler calling for the 16 to 1 coinage of silver. They voted for the measure by 25 to 23, and the Senate, on April 17, voted down the amendment by the relatively narrow margin of 33 to 43. Apparently, the inflation issue had to be faced. It seemed clear that unless the President acted, Congress was likely to pass an inflationary measure—a move which might not only be harmful in itself, but damaging to the prestige of the Administration.

Such developments were forestalled by the President's recommendation of "controlled inflation" and the gold embargo of April 19. Embodied in the Thomas amendment to the farm relief bill, the inflationary measure absorbed the various proposals made and then left within the discretion of the President the alternatives that might be used. Opposition was disarmed, yet the Chief Executive was not committed to the views of any one *bloc*. The wide discretionary powers granted him were permissive, not mandatory. The Democrats were brought together behind the President's stand and supported the Thomas amendment 50 to 3. The Republicans opposed both inflation and the farm relief bill. The only effective criticism of the Administration came from the Senate.

As the next table shows, party control in the Senate was far less effective than in the lower chamber. Democratic majorities voted for several measures which were opposed by the President or which lacked his support. The Black 30-hour week bill, the LaFollette income tax publicity amendment, and the amendment on taxation of tax-exempt securities are examples. The contrast between the two houses is heightened if we examine the struggle over industrial recovery and veterans' compensation.

On May 17, the President recommended the "two steps toward putting people to work" that ushered in the National Industrial Recovery Act.

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Principal Record Votes in Senate

Subject	Designation	Date	Total vote (including Farmer-Labor)	Democratic vote	Republican vote
			Yea-Nay	Yea-Nay	Yea-Nay
Bills:					
1. Provision for emergency bank relief and gold embargo	HR 1491	Mar. 9	73– 7	51– 1	22– 5
2. Provision for general governmental economies (Economy bill)	HR 2820	Mar. 15	62–13	43– 4	19–19
3. Legalization and taxation of beer (Beer bill)					
Original bill	HR 3341	Mar. 16	43–30	31–13	12–17
Conference report	HR 3341	Mar. 20	43–36	33–19	10–17
4. Provision for direct unemployment relief (Emergency Relief bill)	HR 4606	Mar. 30	55–17	42–2	12–15
5. Provision for 30-hour week in industry (Black bill)	S 158	Apr. 6	53–30	41–1.0	11–20
6. Operation of Muscle Shoals and development of Tennessee Valley	HE 5081	May 3	63–20	48– 3	14–17
7. Provision for farm aid, mortgage refinancing, and inflation (Agricultural Adjustment bill)					
Original bill (farm aid only)	HR 3835	Apr. 28	64–20	48– 4	15–16
Conference report	HR 3835	May 10	53–28	39–11	13–17
8. Provision for public works and industrial control (Industrial Recovery bill)					
Original bill	HR 5755	June 9	58–24	47– 4	10–20
Conference report	HR 5755	June 13	46–39	41–15	5–23
Resolution:					
1. Invalidation of gold standard clause	HJRes.192	June 4	48–20	43– 2	4–18
Article of Impeachment:					
1. Conviction of Judge Louderbach (⅔ necessary)		May 24	45–34	38–12	6–22
Amendments:					
1. Exemption of salaries under $1000 from cuts (Economy bill)		Mar. 15	32–42	18–27	14–15
2. Limitation of veterans' cuts to 25 per cent (Economy bill)		Mar. 15	28–45	17–27	11–18
3. Prohibition of radio beer advertising (Beer bill)		Mar. 16	36–38	19–26	17–12
4. Prohibition of sale of beer to persons under 16 (Beer bill)		Mar. 16	50–23	26–17	24– 6
5. Provision for price-fixing at cost of production (Agricultural Adjustment bill)		Apr. 13	47–41	28–27	18–14
6. Provision for 16–1 coinage of silver (Agricultural Adjustment bill)		Apr. 17	33–43	25–23	7–20
7. Placement of embargo on goods landed below U. S. cost (Agricultural Adjustment bill)		Apr. 19	28–50	2–44	25–6
8. Inflation of currency (Agricultural Adjustment bill)		Apr. 28	64–21	50– 3	13–18
9. Payment of bonus to veterans (Agricultural Adjustment bill)		Apr. 28	28–60	17–39	10–21
10. Recession from stand on "cost of production" plan (Agricultural Adjustment bill)		May 10	48–33	30–21	18–11
11. Increase of income taxes on higher incomes (Gas Tax bill)		May 12	14–50	10–33	3–17
12. Elimination of industrial licensing clause (Industrial Recovery bill)		June 8	31–58	8–48	23– 9
13. Grant to President of power to restrict imports hampering recovery plan (Industrial Recovery bill)		June 8	59–12	33–11	25– 1
14. Imposition of 1¾ per cent sales tax (Industrial Recovery bill)		June 9	28–57	9–45	19–11
15. Provision for publicity for income tax returns (Industria Recovery bill)		June 9	56–27	42–10	13–17
16. Taxation of tax-exempt securities (Industrial Recovery bill)		June 9	45–37	32–20	12–17
17. Exemption of publicly-owned power plants from electricity tax (Gas Tax bill)		May 11	45–31	32–16	12–15
18. Cancellation of power granted President to eliminate subsidies (Ind. Offices Appro. bill)		May 31	28–35	8–30	20– 4
19. Limitation of certain veterans' cuts to 25 per cent (Independent Offices Appropriation bill)		June 2	43–42	39–16	4–25
20. Restore additional veterans' compensation (Ind. Offices Appro. bill)		June 14	51–39	19–39	31– 0
21. Provision for moderate increases in veterans' compensation (Ind. Offices Appro. bill)		June 15	45–36	45– 8	0–27

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The first was that Congress provide the machinery necessary for a great coöperative movement throughout industry "to shorten the working week, to pay a decent wage for the shorter week, and to prevent unfair competition and disastrous over-production." The second proposal was a grant of full power to the Chief Executive to start a large program of direct employment through a public works program. These ideas were not unfamiliar to Congress. The Senate had accepted a proposal of Senator Black for a 30-hour week, and the House had been considering suggestions of Secretary Perkins for limiting the hours of labor and fixing a minimum wage.

When the National Recovery Act was before the House, an attitude of acquiescence characterized the debate. "This is the President's special session of Congress," declared Representative Blanton. "He is the Moses who is leading us out of the wilderness." Representatives were aware of the questionable constitutionality of the act, and of the extraordinary grant of authority that they were giving the Chief Executive, but they did not hesitate. Some resentment was expressed that the President should leave to Congress the unpopular task of determining the tax provisions, but aside from these modifications the House undertook no critical revision. The bill passed by 325 to 76.

It was in the Senate that the critics were heard. Senator Reed sought to wipe out the grant of licensing power given the President, and when his proposal was voted down, 31 to 58, Senator Clark moved to strike out the entire industrial recovery section. "There is no logical or reasonable connection on the face of the earth," declared this senator, "between the meritorious and desirable provisions of Title II, for improving the unemployment situation by a public works program, and the provisions of Title I, for the emasculation of the anti-trust laws, the imposition of embargoes, the establishment of an industrial dictatorship, and the requirement that citizens of the United States may be required to obtain a license from some bureaucrat in order to conduct a legitimate business in a free country." His fellow-senators disagreed by a vote of 31 to 49. The Senate, however, limited the licensing provision to one year, authorized federal control over the oil industry, and granted the President power to prohibit imports in order to protect domestic producers bound by code agreements. Senator LaFollette successfully sponsored an amendment to the industrial recovery bill making all income tax returns public records, and Senator Clark got the Senate to approve the elimination of existing tax exemptions of federal, state, and local bonds. In conference, the Clark amendment was stricken out and the LaFollette proposal modified. These changes occasioned a sharp attack in the Senate on the conference report before the N.I.R.A. was finally passed on June 13.

When important amendments were made, it was the Senate that acted.

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Party control of the lower house stultified critical deliberation in that body. The national securities act was jammed through the House under a rule limiting debate to five hours and banning amendments except from the Ways and Means Committee which reported the measure. In the Senate, after a free debate, an important amendment was added creating a corporation of foreign security holders. Senator Norris got his provisions written into the Muscle Shoals bill ruling out the commercial production of fertilizer and granting wider authority for building transmission lines.

The most serious opposition to the President's program arose over the curtailment of veteran's expenditures. Under the authority of the Economy Act (signed March 20), the President issued executive orders for reductions estimated to cut $460,000,000 off the veterans' budget. Accounts of the hardships resulting from these cuts aroused intense dissatisfaction. What the senators objected to, in the words of Senator Long, was "authorizing some little 2-by-4, two-bit job-hunting politician" in the Veterans' Administration to decide the compensation due the ex-service men. "They [the executive orders] went beyond all reason in their reductions," said Senator Dill.

How much opposition to the President by Congress would the public tolerate? It became a matter of percentages in the fight over this measure. Senator Trammell proposed to limit cuts in the compensation for service-connected disabilities to 15 per cent. Senator Connally thought a 25 per cent limit on reductions might be "put over," while a 15 per cent restriction on cuts would prove too unpopular. "If we insist on cutting off only a small amount," the Senator stated, "and the President should veto the bill, the country will rally to the support of the President and will condemn Congress for undertaking to antagonize his policy." After several proposals had been voted upon, a compromise protecting by a 25 per cent reduction limit the compensation of World War veterans with service-connected disabilities and pensioners of other wars was passed. Vice-President Garner voted "yea" to break the tie vote of 42 to 42 and perhaps forestall more drastic amendments. The President objected to this compromise, but the veteran's *bloc* was ready to demand more. A consultation with House leaders was held, and the President made concessions, relinquishing $100,000,000 from the reductions first contemplated. The House accepted this move by 243 to 154 on June 10, but the Senate sought more liberal provisions by supporting by 51 to 39 the Steiwer-Cutting amendment. Party leaders, fearful of favorable action by the House, immediately called a Democratic caucus and obtained a vote of 170 to 35 in support of the President's position. Conferees were informed that an unsatisfactory conference report would be met with a prompt veto, with all the President's constituents "listening in." The House rejected the Senate proposal by 177 to 208, and the Senate finally gave way. "I am

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not willing to be responsible at this time for continuing a useless and futile contest," said Senator Black when he and eight other Democratic senators shifted their position to support the President's compromise. The deadlock was thus broken on June 15 by a vote of 45 to 36 in favor of the Administration. References were made to the "party lash" and to telephone calls from the White House urging senators to fall into line. The most persuasive factor, however, seemed to be the feeling that the public had full confidence in the President's sense of justice, and that championing the veterans' cause at the cost of defying the Administration would do the ex-service man more harm than good.

Our examination of the process of law-making during this session emphasizes the fact that despite the emergency conditions necessitating quick and decisive action, and despite the unified support given the President by the general public, factions remained in Congress. *Blocs*, such as the farmers', the veterans', and the inflationists', gained strength because of the critical economic situation and threatened at times to obstruct the President's recovery program. Party solidarity was uncertain and party control was limited in its powers. Public attention was unstable. By great good fortune, a skillful politician was in the White House who knew how to handle the public and how to negotiate with Congress. The President was able to out-manoeuver his opponents and to compromise when a clear victory was impossible. His leadership supplied the unifying force.

It was at the level of the presidential office that the hierarchy of party, the confusion of legislative *blocs*, and the administrative authorities were given some measure of integration in meeting national problems. The developments in party organization in this session resulted in a further dispersion of responsibility. Party control in the House became a control of the formal procedure. For leadership in policy, Congress turned to the Chief Executive.

His influence perhaps in greatest measure rested upon public confidence, together with his personal as well as official prestige. But for weathering the many political viscissitudes of putting through a compicated legislative program he was not forced to rely entirely upon these intangible factors. A second line of defense of undoubted significance was his control of patronage. In the distribution of jobs, the test of pre-convention support of Roosevelt was applied, but to this was added the query: "How did you vote on the economy bill?" The President postponed all appointments except those that could not possibly be delayed, and owing to this (as one observer remarked) "his relations with Congress were to the very end of the session tinged with a shade of expectancy which is the best part of young love." His control of patronage was the only means that he had of touching individual members of Congress

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directly. The President could defy pressure groups and appeal to the country over the radio. But when he wished to marshall Congress behind his program and to persuade congressmen to risk the displeasure of important interests in their districts, he needed some means of strengthening their position at home. The dangers, the faults, and the limitations of this method are obvious. Yet the session indicated that the consummation of a national program of legislation is greatly aided by transmuting through patronage the localism of our politics into support of the Chief Executive. The session demonstrated that despite federalism, bicameralism, factionalism, and the negative character of our political parties, the present governmental structure is capable of meeting a national crisis. Responsible executive leadership appeared. For its sanction, it relied in large measure upon the popular fear during an emergency and upon the political patronage flowing from an electoral victory. The session made clear the urgent necessity of responsible political leadership, but it afforded little light as to how this authority can be effectively retained under other conditions.

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State Legislation on Public Utilities in 1933. More significant legislation on public utilities was enacted by the American states in 1933 than in any other year since the beginning of the regulatory state commissions in 1911–14. Legislatures met in regular and/or special sessions in all of the states of the Union with the exception of Mississippi. The growing discontent with the failure of the existing regulatory system in many states to protect investors and consumers against what they considered to be high rates and unjust burdens inflicted by holding companies and inter-company agreements brought forth a vast number of bills. In several states, such bills became laws. The outstanding features of these laws include: (1) reorganization of utilities commissions to the end that all regulatory functions may be concentrated in one or a few agents; (2) increase in the regulatory authority vested in state commissions; (3) creation of a public counselor or attorney to protect the interest of the public in utilities cases before the commission and the courts; (4) regulation of holding companies and inter-company relations; (5) allocating to the utilities a portion of the cost of investigations and regulation; (6) increase in the taxes (corporation and/or excise taxes) imposed upon utilities; and (7) provisions for public ownership—state, district, or municipal. Moreover, in at least ten states, surveys or investigations into the utilities situation were instituted by the legislature, with the promise of more stringent legislation in the future.[1]

Reorganization of Utilities Commissions. A single utility commissioner was created in South Dakota, to whom was transferred all the powers of the railroad commission, which was abolished. The utility commissioner is appointed by the governor, with the consent of the senate, for a term of six years.[2] The legislature of Arkansas created the Arkansas corporation commission, consisting of three members appointed by the governor with the consent of the senate. The commissioners "hold office at the pleasure of the governor."[3] Under the new administrative code of Colorado, the public utilities commission constitutes a division in the department of law.[4] The power of the governor over the reorganized public service commission in Indiana was increased by the provision that "any member of the commission may be removed by the governor at his pleasure." The existing commission of five members was abolished and a

[1] States providing for surveys or investigations were Arizona, Connecticut, California, Illinois, Massachusetts, Nebraska, New Jersey, New York, North Dakota, and West Virginia.

[2] South Dakota, *Session Laws*, 1933, Chap. 166.

[3] Arkansas, *Acts of the General Assembly*, 1933, Act 12, Sec. 1.

[4] Colorado, *Laws*, 1933, Chap. 37, Art. 5.

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new commission of three created, the members of which are appointed by the governor for four-year terms with maximum salaries of $6,000 a year.[5] The Kansas legislature created a state corporation commission, composed of three members appointed by the governor and senate. The powers and duties of the abolished public service commission, and of the bank commissioner and charter board, relating to securities were transferred to the new corporation commission.[6]

Increase in the Regulatory Authority Vested in State Commissions. A drastic increase in the authority of the Illinois commerce commission is contained in the provision that the commission shall have power to order a public utility not to pay dividends on its common or preferred stock in cases where its capital has become impaired, where no provisions are made for reasonable and proper reserves and for a reasonable depreciation annuity, and where the payment of dividends on common stock would impair "the ability of the utility to render reasonable and adequate service at reasonable rates."[7] The commission is furthermore empowered to require the disclosure of the identity of every owner of one per cent or more of the voting capital stock, and to have access to all accounts and records of "affiliated interests having transactions . . . with public utilities under the jurisdiction of the commission."[8] The Pennsylvania legislature similarly gave authority to the public service commission of that state which enables it to ascertain "the identity and respective interests of every owner of a substantial interest (10 per cent or more) in the company's voting capital stock."[9]

The board of railway commissioners of North Dakota is granted a wide extension of powers, and also given protection against legal technicalities, by the provision that in "all hearings, investigations, proceedings, and valuations [all of which shall be public], the technical rules of evidence shall not be applied," and that no informality in procedure "shall invalidate any order, decision, rule, regulation, or rate made . . . by said board of railroad commissioners."[10]

The outstanding departure from the regulatory policy of American states is found in the law of Oregon which gives the public utilities commissioner "power of regulation, restriction, and control over the budgets of expenditures of public utilities as to all items covering proposed payment of salaries of executive officers, donations, political contributions and political advertising, and all other expenditures and major contracts

[5] Indiana, *Acts*, 1933, Chap. 93, Sec. 2.
[6] Kansas, *Session Laws*, 1933, Chap. 275.
[7] Illinois, *General Assembly*, 1933. House Bill 845, Art. III, Sec. 27a.
[8] *Ibid.*, Art. I, Sec. 8a.
[9] Pennsylvania, *Laws*, 1933, No. 333, Sec. 8b.
[10] North Dakota, *Session Laws*, 1933, Chap. 220.

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for the sale or purchase of equipment, and as to all items covering or contemplating any payment . . . to any person or corporation having an affiliated interest. . . ." The commission must "determine whether each and all of the expenditures are fair and reasonable and not contrary to public interest," and approve or reject the budget in whole or in part. No unapproved expenditure may be "recognized as an operating or capital expenditure in any rate-valuation proceeding."[11] The "recapture" clause of the law is an even more noteworthy departure from past practices. Any net operating income "in excess of a reasonable rate of return upon the value of the utility property actually used and useful for the convenience of the public" shall be set up in a reserve fund "for the benefit of the consumers in reduction of net investment, in establishing and maintaining amortization or contingent funds or for any other beneficial purpose under the direct supervision and by order of the commissioner of public utilities."[12]

The authority of the public utilities commissions over the issuing of securities by public service companies was granted or strengthened in a number of states. This subject received special consideration in Pennsylvania,[13] Washington,[14] and Wisconsin.[15] Although the Pennsylvania law strengthened the authority of the public service commission over the issuing of securities, it fell far short of the recommendations of Governor Pinchot. The Washington law enumerates the purposes for which stocks and bonds or other evidence of interest or ownership or indebtedness by a public service company may be issued.[16] Any such security issued without the authorization of the public works department is declared void; likewise it is void if it does not conform in substance to the requirements specified in the authorization by the department.[17] The notable feature of the Wisconsin law is the entrusting of the administration of a thoroughly revised blue-sky law to the public service commission. One or more attorneys employed by the commission to aid in the administration of the act may, at the request of the commission, be added to the attorney-general's office.[18]

Public Counselors. Expert legal assistance in the interest of the public in the form of fact-finding tribunals, public attorneys, or public counselors is provided by the legislation of several states, notably Arkansas and Indiana. The fact-finding tribunal of Arkansas is a bureau of the

[11] Oregon, *Laws*, 1933, Chap. 441, Sec. 1.
[12] *Ibid.*, Sec. 30.
[13] Pennsylvania, *Laws*, 1933, No. 333.
[14] Washington, *Session Laws*, 1933, Chap. 151.
[15] Wisconsin, *Laws*, 1933, Chap. 158.
[16] Washington, *Session Laws*, 1933, Chap. 151, Sec. 3.
[17] *Ibid.*, Sec. 9.
[18] Wisconsin, *Laws*, 1933, Chap. 158, Sec. 189.17.

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corporation commission entrusted with the power to investigate and make a finding of all facts entering into or forming the basis of rates to be charged for services supplied by any public utility."[19] It is further charged with the duty of furnishing legal assistance to any city or town or to the corporation commission in any litigation as to rates.[20] A public counselor was created by the legislature of Indiana, to be appointed by the governor and removed at the governor's pleasure. He is authorized "to appear on behalf of the rate-payers, patrons, and the public in all hearings before the commission, in appeals from the orders of said commission and in all suits and actions in any court in which the commission is a party" involving rates, services, valuations, securities, mergers, sales, and in all other proceedings affecting the patrons of a public utility or the public itself.[21]

Regulation of Holding Companies and Inter-Company Relations. Provisions intended to bring holding companies under control of state commissions and to regulate inter-company financing were considered in many states and were enacted into law in at least eight. "Upstream loans" (loans by an operating company to a holding company or affiliated company), without the consent of the public service commission, were prohibited by the legislatures of New York,[22] Oregon,[23] Wisconsin,[24] and Pennsylvania.[25]

Governor Lehman of New York, backed by the recommendation of the public service commission, presented a comprehensive program of reform in several messages to the legislature, only a minor portion of which was accepted by the general assembly. It is significant, however, that he did secure the enactment of a law providing that "except with the consent and approval of the public service commission first had and obtained, no public utility shall loan moneys, stocks, bonds, notes, or other evidences of indebtedness to any corporation, company, association, partnership, or individual owning directly or indirectly any stock of said public utility."[26]

The legislature of Oregon provided that "no public utility shall issue notes, or loan its funds, or give credit on its books or otherwise, to any person or corporation having an affiliated interest, either directly or indirectly, without the approval of the commission."[27] The Wisconsin law

[19] Arkansas, *Acts of the General Assembly*, 1933, Act 72, Sec. 2.
[20] *Ibid.*, Sec. 13.
[21] Indiana, *Acts*, 1933, Chap. 93, Sec. 4.
[22] N. Y., Cahill's *Consolidated Laws*, 1933, *Supplement*, Chap. 49.
[23] Oregon, *Laws*, 1933, Chap. 441, Sec. 2.
[24] Wisconsin, *Laws*, 1933, Chap. 440, Sec. 2.
[25] Pennsylvania, *Laws*, 1933, No. 333, Sec. 5.
[26] N. Y., Cahill's *Consolidated Laws*, 1933, *Supplement*, Chap. 49, Art. 6.
[27] Oregon, *Laws*, 1933, Chap. 441, Sec. 2.

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provides not only that no money shall be loaned to a corporation, without approval of the commission, but also that no such loan shall be made to "any one or more of its officers or directors."[28] The same principle in general was enacted by the Maryland legislature. The law now provides that no Maryland corporation may assume any liability in respect to evidences of indebtedness until and unless the commission authorizes it as "lawful and proper and consistent with public interest."[29]

Laws providing in substance that no contract or agreement relating to management, advice, engineering, legal or other services, supplies, materials, etc., without the approval of the public utilities commission may be entered into or be legally enforceable between a public service company and any holding company or affiliated interest, were enacted by the legislatures of Washington,[30] Oregon,[31] Pennsylvania,[32] and Illinois.[33] The legislatures of New Hampshire,[34] Massachusetts,[35] and Vermont[36] oblige utilities companies to file with the public utilities commission complete information regarding contracts, agreements, purchases, sales, or other financial transactions between themselves and any holding company or affiliate. The New Hampshire law gives the commission the authority "to apply to the superior court for an order directing the public utility to cease making any such payment or doing such other thing, and thereupon the court shall make such order as the public good may require."[37]

Shifting of the Cost of Hearings and Investigations. The 1933 legislation marked a notable advance in the policy of shifting from the state or the public to the utilities involved the cost of rate and other hearings and of investigations into the conduct of utilities enterprises. Utilities in Arkansas are assessed each year at the rate of $2.00 for each $1,000 gross earnings from property within the state to bear the cost of the fact-finding tribunal created by Act 72 of the *Laws* of 1933.[38]

Legislation in Oregon places upon a public service corporation, applying for authority to issue securities, the expenses of the special investigation necessitated by the application.[39] Furthermore, the public utilities commissioner is authorized, with permission of the emergency board, to

[28] Wisconsin, *Laws*, 1933, Chap. 440, Sec. 2.
[29] Maryland, *Laws*, 1933, Chap. 381A.
[30] Washington, *Session Laws*, 1933, Chap. 152, Sec. 2.
[31] Oregon, *Laws*, 1933, Sec. 2.
[32] Pennsylvania, *Laws*, 1933, No. 333, Sec. 5.
[33] Illinois, *Laws*, 1933, *House Bill* No. 1001, Sec. 8A (3).
[34] New Hampshire, *Public Acts*, 1933, Chap. 182, Sec. 1. (258A, Secs. 2–5).
[35] Massachusetts, *Acts of the General Court*, 1933, Chap. 202.
[36] Vermont, *Public Acts*, 1933, No. 114.
[37] New Hampshire, *Public Acts*, 1933, Chap. 182, Sec. 1 (258A, Sec. 5).
[38] Arkansas, *General Assembly Acts*, 1933, Act 72, Sec. 8.
[39] Oregon, *Laws*, 1933, Chap. 441, Sec. 29.

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collect from all public utilities a sum sufficient to conduct an emergency investigation or meet any other emergency expenditures in case the legislature is not in session and sufficient funds are not available in the regular appropriation. Or if an investigation reveals that some one utility company is guilty of unreasonable or improper practice, the cost of the investigation is to be assessed solely against the offending utility company.[40]

The commerce commission of Illinois is authorized to assess against the utility company involved the expense of investigating "the books, accounts, prices, and activities, or make inventories and appraisals of the property, of such public utility."[41] The expenses for experts (rate experts, engineers, accountants) employed by the North Dakota board of railroad commissioners in rate hearings or proceedings are to be paid by the utility being investigated or involved in such hearings or proceedings; and if the utility neglects such payment, the state board of equalization of taxation shall assess the amount against the property of the utility company, collection being made in the manner by which property taxes are collected.[42]

The expenditures of the public service commission of Wisconsin, incurred in carrying out its legal duty of investigating books, accounts, practices, etc., of public utilities or in making appraisals of the property of or in rendering any engineering or accounting service to any public utility, are assessed against the utility company or companies involved, provided that the assessment in any one year may not exceed one-half of one per cent of the gross intrastate operating revenue of the company in the past calendar year.[43] It is interesting to note that as late as August 3, 1933, Governor Lehman of New York, in a special message to the legislature, proposed a measure quite similar to the Wisconsin law, for the avowed purpose of transferring from the public treasury to the utilities a part of the cost of regulation. The proposal, along with the major provisions of his utility program, was rejected by the legislature.[44]

Taxation. Emergency tax measures in a number of states include public utilities in that class of property or occupations from which additional revenue is to be derived. Illinois imposed a two per cent occupational or sales tax on the gross revenues of utilities.[45] The Oklahoma sales tax includes receipts of public utilities.[46] The Virginia legislature, in special session, imposed on water, light, power, gas, telephone, telegraph, and elec-

[40] *Ibid.*, Sec. 27.
[41] Illinois, *Laws*, 1933, *House Bill* 1001, Sec. 41A.
[42] North Dakota, *Session Laws*, 1933, Chap. 220, Sec. 4.
[43] Wisconsin, *Laws*, 1933, Chap. 4, Sec. 2.
[44] *N. Y. Times*, Aug. 4, 1933.
[45] *Public Utilities Fortnightly*, Sept. 28, 1933, p. 424.
[46] *N. Y. Times*, April 24, 1933.

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tric railway companies an additional tax of two-tenths of one per cent of the gross receipts from business done within the state.[47]

Bills providing for increased taxation of utilities were killed in the legislatures of several states. For example, the Idaho house of representatives rejected a bill for the doubling of the one-half mill tax per kilowatt hour on electricity;[48] a "direct initiative bill"[49] submitted to the voters of Maine at the September election, providing for the imposition of an excise tax of two per cent on the gross operating revenue of electric enterprises received from the sale of electric current, was defeated by a popular vote of 46,015 to 90,804.[50] A bill considered by the Kansas legislature proposing a tax of one-half of one per cent on the gross operating income of public utilities was rejected by the Kansas house by a vote of 56 to 55.[51]

Public Ownership. Interest in public ownership, especially of electric distributing enterprises, was greatly enhanced by government development of Muscle Shoals, the proposed St. Lawrence power development, and the offer of the federal government through the Public Works Administration of loans to municipalities for the erection or purchase of municipal utilities.

The Alabama legislature authorized cities and towns and other municipalities operating water or electric light and power plants "to contract with and sell water and power to other municipalities and to residents thereof."[52] Such municipalities were, furthermore, authorized to construct or acquire "power lines for the transmission of electricity from any point in this state or any other state to said . . . municipality for the purpose of serving the needs of its citizens."[53] For the purpose of acquiring lands and property necessary for such transmission, the municipalities were authorized to exercise the right of eminent domain.[54]

South Carolina has inaugurated a unique and ambitious experiment in the creation of public utility districts under the supervision of the highway department. The avowed purpose of the law is to provide an abundant and cheap supply of electric light and power for the use of the highway department "and to obtain as incidental thereto . . . service of light, heat, and power for the industries and homes of the farmers of the state."[55] Authority is granted to the department to construct, maintain, and con-

[47] Virginia, *Acts, Extra Session*, 1933, Chap. 14.

[48] *U. S. News*, Feb. 15, 1933.

[49] Maine Secretary of State, *Proposed Constitutional Amendments and Direct Initiative Questions to be Voted upon Sept. 11, 1933*, pp. 7–9.

[50] Maine Secretary of State's Office, Official Records.

[51] *U. S. News*, Nov. 27, 1933.

[52] Alabama, *General Laws, Extraordinary Session*, 1933, Act. No. 106.

[53] *Ibid.*, No. 105, Sec. 1. [54] *Ibid.*, Sec. 2.

[55] South Carolina, *Acts*, 1933, No. 275, Secs. 3–4.

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trol the necessary lines and equipment, to sell to custom consumers at actual true cost plus an excess of not less than five per cent for amortization of original cost, to enter into contracts for current with the United States government or any state government, and to borrow from the Federal Reconstruction Finance Corporation. Loans are to be secured only by anticipated income, and the cost of maintenance and operation is to be allocated between the highway department and custom consumers on the basis of utility districts and further on the basis of units of power consumed.[56]

A broad grant of power to own and operate public utilities was extended to the municipalities of Arizona. In the grant were included water works, electric light and gas plants, electric transmission lines, pipe lines for oil and gas, garbage reduction plants, and manufacturing plants for the production of materials to be used "for public improvement purposes or public buildings."[57] A municipality is authorized to undertake a public ownership enterprise only upon the affirmative vote of a majority of the qualified taxpayers voting on the question.[58]

Indiana municipalities were given the right "to purchase, condemn and operate, or construct and operate, heat, light, power, and water utilities, not only for municipal purposes, but for sale to the public "in and within six miles of the limits of such municipality." No "certificate of public convenience and necessity" is required, and the municipality has full power to establish its own plants "although there is operating in said municipality a public utility engaged in a similar service under a license, franchise, or indeterminate permit."[59] Municipal ownership in Indiana in the future is encouraged by the provision that any public utility, by accepting an indeterminate license, permit, or franchise, shall "be deemed to have consented to a future purchase of its property, including property located in a contiguous territory . . . and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the judgment of a court."[60] Municipal ownership was further encouraged by the granting of authority to negotiate loans from the Federal Reconstruction Finance Corporation for the purpose of establishing, extending, or improving such utilities. Such loans shall be secured by a mortgage on the plant and its net earnings.[61] Such Indiana municipally-owned utilities are subject to taxation on their property except on that portion which may be "reasonably allocated by the public service commission to the furnishing of services to such municipality itself."[62]

[56] *Ibid.*, Secs. 7–13.
[57] Arizona, *Laws*, 1933, Chap. 77, Sec. 1.
[58] *Ibid.*, Sec. 2.
[59] Indiana, *Laws*, 1933, Chap. 190, p. 94.3
[60] *Ibid.*, p. 946.
[61] *Ibid.*, p. 950.
[62] *Ibid.*, p. 952.

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In pursuance of a constitutional amendment[63] adopted at the general election in Wisconsin in November, 1932, allowing municipalities to finance public utilities outside of the 5 per cent debt limit by mortgaging the utility or its income instead of incurring a general indebtedness to be paid from taxes, the legislature in 1933 enacted a law setting up in detail the provision for issuing and paying such mortgages.[64] Municipalities were made to include power districts. All moneys received from such bonds must be applied solely for the purpose of the utility, an adequate depreciation fund and a redemption fund are provided for, and services rendered to the municipality by a municipally-owned utility must be paid for by the municipality. The law definitely provides that "the lien upon the property . . . and upon the income shall be the only security, and that no municipal liability is created."[65]

A Kansas statute provides that all public utilities moneys shall be kept by the municipal treasurer in a separate account and shall be used only for purposes of operating, revising, or extending the plant from which the fund is derived, or, in case of a surplus, shall be placed in a sinking fund for retirement of the bonds of the utility. Only when the surplus is not needed for the above purposes may it be transferred or merged into the general revenue fund of the city.[66]

Legislation in Nebraska legalizes the creation of a new "public corporation or political subdivision" of the state in the form of an electric power and irrigation district. Any one or more municipalities may organize and incorporate as such a district. The district is authorized to own and operate electric generating plants, transmission lines, and distribution systems, to sell energy for all purposes to private consumers, and to pledge its revenues for the payment of debts incurred in the purchase of plant and equipment.[67]

Minnesota municipalities may, by a three-fourths vote of the municipal government, or by majority vote at a referendum in home rule charter cities, sell electric energy to consumers outside the municipal boundaries not to exceed a distance of twenty-five miles. The extension of lines and the furnishing of service in other municipalities are contingent upon the consent of the interested municipalities. Indebtedness created for such extensions shall be a charge against the revenues of the utility only.[68]

Washington municipalities owning municipal electric plants are au-

[63] Wisconsin, *Constitution*, Art. XI, Sec. 3.
[64] Wisconsin, *Laws*, 1933, Chap. 162.
[65] *Ibid.*, Sec. 2 (c).
[66] Kansas, *Session Laws*, 1933, Chap. 141.
[67] Nebraska, *Laws*, 1933, Chap. 86.
[68] Minnesota, *Laws*, 1933, Chap. 141.

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thorized to sell electric energy to, or buy such energy from, "any other city or town, public utility district, governmental agency or municipal corporation, mutual association, or to any person, firm, or corporation inside or outside its corporate limits."[69] Authority is granted to municipalities to acquire by purchase, or condemnation under the right of eminent domain, the necessary property for rights-of-way, power plants, and sub-stations.[70] No such property may be acquired by a municipality in any other city or town without the approval of a majority of the qualified electors thereof.[71]

It is significant to note, under this subject, that Governor Lehman's proposal to the New York legislature to permit municipalities to operate electric utility plants and to sell electricity to their residents was denied passage by the legislature. Such a permit, the governor argued, would provide an outlet for energy to be developed from the St. Lawrence power project in case the New York Power Authority proved unable to make satisfactory contracts with private utilities companies. It would also provide powerful potential competition in case private utilities charged exorbitant rates.[72]

Significant trends in 1933 state public utilities legislation appear to be along the lines of stricter control of holding companies and inter-company relations, greater protection of investments in utilities securities, wider recognition that state regulation must provide more effective protection of the public interests, and the legalizing of publicly owned utilities as a powerful potential competitor with privately owned enterprises.

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The Vote-and-a-Half System of Majority Choice by Plurality Vote, and of P.R. One of the most serious problems involved in the democratic choice of officers has always been that of securing the election of the candidate who is most favored by the electorate when more than two candidates are contending for a position and no candidate can get a clear majority. A similar problem exists when two or more positions are grouped, and there are more candidates than positions.

A divided vote in the situations mentioned naturally suggests that the elimination of the least popular candidates will on a revote determine the real preference of the voters. However, as is well understood, this is not an accurate test, because the next to the last candidate, for example, might quite possibly have run well up in the lead but for the decrease in

[69] Washington, *Laws*, 1933 (Regular Session), Chap. 51, Sec. 1.
[70] Washington, *Laws*, 1933 (Regular Session), Chap. 51, Sec. 2.
[71] *Ibid.*, Sec. 3.
[72] *N. Y. Times*, March 29. (Governor Lehman's special message of March 28.)

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his vote caused by the weakest candidate; or to use a clearer example, if only the two highest are allowed to compete in a revote or run-off election, the candidate who was third highest is excluded, although he might have won the revote by the votes of those who voted for the fourth and lower candidates. On the other hand, unless the revote is limited to two candidates, it may result in another failure to give a majority to any candidate, which would suggest yet another revote. The expense to the government of such revotes for public officers, and the additional campaign costs involved, as well as the time element, make more than one revote a practical impossibility as a rule, and make even a single run-off vote undesirable, entirely apart from its major defect from the point of view of securing the election of the choice of the majority of the electorate.

The compromise device of election by simple plurality vote has usually been adopted as the most practical solution of the problem, as it avoids revotes and gives at least the appearance of democratic control. Its great defect is, of course, that it makes possible the election, by accident or by design, of a minority candidate by a split in the ranks of the real majority. This defect is so serious in practice that it may now be said that the device has definitely proved itself to be undemocratic.

Another solution of this problem is the device known as preferential voting, in one form or another. The most effective of the simpler preferential voting plans seems to be that known as the Bucklin plan, in which the voter has a first and second choice, and on the third column of his ballot, as many other choices as he cares to indicate. If no candidate secures a majority of first choices, the second choices are counted, and if still no candidate has a majority, the third column votes are counted for all candidates and the one receiving the highest total wins. This makes it possible for the majority faction of the voters to get together eventually for the selection of a candidate, but it shares the defect of all nontransferable-vote preferential systems of permitting a second choice vote in certain situations to work too effectively against a voter's first choice vote.[1]

The simplest of the preferential systems is, of course, that in which the elector is permitted to make a first and a second choice only, and if no candidate gets a majority, the second choices are counted, and the candidate receiving the highest vote wins. However, this system is not so thorough as the Bucklin plan, and it magnifies the defect of the nontransferable vote preferential systems which gives such undue weight to second choice votes that in certain cases a voter practically pairs with himself and nullifies his first choice vote. Moreover, any system of preferential voting which provides for the elimination of all but the two highest

[1] See C. G. Hoag and G. H. Hallett, *Proportional Representation*, Appendix x.

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candidates for counting of the second choice votes is essentially defective for the same reason as is a run-off vote between the two highest candidates, as explained above.

The transferable vote preferential system avoids the defect of alternative choices defeating preferences, but it does not completely avoid the defect of the run-off system, as it eliminates the weakest candidates successively. This and the Nanson and Hallett systems (described in the Hoag citation) are even more complicated and difficult to apply than the systems already described. Also, the transferable vote systems have the serious disadvantage of requiring all ballots to be gathered in a single place for counting, because transfers of votes are made progressively from ballots cast for candidates who are eliminated from the contest.

Although the preferential system does solve the problem of majority choice by a single election, the indifference of voters to their preferential voting privileges, the confusion experienced in balloting, and the difficulties encountered in computing results under some of the systems have together prevented the general adoption of the preferential vote, and have led to its abandonment in many places where it has been tried.[2]

This paper recommends another device for the solution of the problem of majority control in elections where more than two candidates are contending. It is admittedly a compromise device, but it deserves adoption, it is submitted, because it is reasonably effective, and is a much simpler system to understand and to use, and its effect is far more easily visualized, than any other system. Moreover, it is simple enough to be used with voting machines.

Although not quite so thorough as the Bucklin or the transferable vote system, as for example where the majority faction is split by candidates of approximately equal strength and the leading minority candidate has half again greater strength than any one of the majority candidates, the system here proposed will nevertheless prove completely effective in all but a very small percentage of situations, and it is much less radical in changing voting habits. Also much less ballot space is required, and the vote can be computed more readily, making it considerably more available for large political units. As compared with other preferential systems, it avoids the over-valuation of the second choice vote, and also avoids the defect of selecting the highest candidates for the final count, besides simplifying the balloting and counting. As compared with the run-off method, this franchise device has the great advantage of being inexpensive, since all it requires is a little more space on the ballot, and a fraction more time to count the ballots, and of course it has the advantage of avoiding the defect of selecting the two highest candidates for the run-off.

[2] See Benjamin H. Williams, "Prevention of Minority Nominations," *Annals of American Academy of Political and Social Science*, Vol. 106, p. 111.

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The device may be called the vote-and-a-half system, and consists simply in permitting each voter to cast as many half-votes as he may cast whole votes (i.e., one whole vote plus one half-vote for each office), but only for different candidates. Although pyramiding or cumulating of votes is not permitted, no cumulating half-vote would invalidate a whole vote, and the voting of too many half-votes would merely spoil the half-votes for that office or group; so half-votes could never spoil whole votes, nor would spoiled whole votes prevent the counting of half-votes. Half-votes, if not spoiled, would always count, and so would always be tabulated along with, but as a separate group from, the whole votes; but a candidate receiving a majority of all whole votes cast for the office or group would not have half-votes counted against him to disturb his position. Tie votes resulting from whole and half-vote totals would give the choice to the candidate receiving the highest number of whole votes; and double ties would leave the choice as at present provided by law. In short, the system permits a whole vote for one candidate and a half-vote for another candidate for each office to be filled, but does not disturb candidates who win a majority of all whole votes cast.

The effect of this vote-and-a-half system would be similar to that of the preferential systems, and would assure the choice, in a single election, of candidates favored by the majority, in all but a few extreme situations. All the arguments in favor of preferential systems would apply to this system, particularly that it would secure majority choice by plurality vote, largely doing away with the typical situation of a split vote of the majority group giving the choice to a minority candidate; also that it would tend to block manipulation by a minority faction or usurpation by the opposition.

The following examples show the operation of the vote-and-a-half system in typical situations:

Candidates	*Whole Votes*	*Half-Votes*	*Effective Vote*
A (minority)	3,150	400 (200)	3,350
B (majority)	2,980	2,600 (1,300)	4,280
C (majority)	2,600	2,580 (1,290)	3,890
A (minority)	2,200	600 (300)	2,500
B (majority)	2,150	2,600 (1,300)	3,450
C (majority)	1,800	1,300 (650)	2,450
D (majority)	1,500	800 (400)	1,900

In both examples, the minority candidate A would have won under the "single-shot" vote, but under the vote-and-a-half system the majority candidate B would be successful. The examples assume, of course, that most of the voters of the majority group used their half-votes, which may or may not prove true in practice. In the writer's opinion, the half-vote

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idea will appeal to the voters as an understandable and tangible privilege, and there will always be an inclination to use it whenever there is an acceptable second candidate. Also it will be used deliberately whenever it is desired to block the choice of a candidate. Individual candidates will, of course, want their friends to vote solely for themselves, as half-votes for others may affect their own position if they fail to secure a clear majority, but they will urgently want the half-votes of the friends of other candidates, which will tend to break down any boycott of half-votes. Most important, if there is a majority group, organized or not, its members will be anxious to use their half-votes for candidates friendly to the group, lest the group lose to the minority or opposition. Independent voters will also be glad of the opportunity to use their half-votes, so as to throw their weight against objectionable candidates.

It should be especially noted that the influence of the half-votes is rather moderate, since it requires two half-votes to balance a whole vote, which means that a definite convergence of half-votes would be necessary to overcome whole vote leads, showing a preponderant willingness on the part of the voters to have that candidate succeed.

The following example illustrates the possibility of a minority with a strong leader controlling the choice because of a split in the majority vote between several candidates of considerable strength:

Candidates	*Whole Votes*	*Half-Votes*	*Effective Vote*
A (minority)	603	92 (46)	649
B (majority)	465	144 (72)	537
C (majority)	229	356 (178)	407
D (majority)	362	294 (147)	509

Under the more thorough Bucklin preferential vote system, candidate D, a majority candidate, won the election in the situation presented.[3] But, as already suggested, the vote-and-a-half system is to be preferred because of its advantages of simplicity, attractiveness to the voters, applicability to all sizes of electorates, and ease of computation, besides its adequacy for all but a very few situations.

The vote-and-a-half system can be applied to any election of candidates, partisan or non-partisan, and whether in district, city, county, state, or national elections, and whether special, primary, or general. Although the examples given in this paper have been selected to illustrate only contests for a single position, the same examples show that the system works equally well in contests for multiple positions, as on a board or commission. It can therefore be adopted as a standard system, without exception, for all nominations and elections of candidates, which in itself would avoid much possible confusion and aid its success. Attention

[3] See Senate Document 985, 63rd Congress, 3rd Session.

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should be called, however, to the fact that voting machines which could not be adjusted to register a whole vote and a half-vote (i.e., a double vote) could not be used under the vote-and-a-half system, and either new machines would have to be secured or regular ballots used.

After a thorough trial, if the system finds favor with the electorate, it may be found possible to abolish in some states, particularly in those which have for all practical purposes but one party, the direct primary election, as the vote-and-a-half arrangement automatically performs, within limits, the function of the primary, as does the preferential system. And if experience indicates that the elimination of the primary will seldom change final results, it may appear safe to take the step, unless other considerations are felt to be controlling. Certainly it will be possible to abolish at least the run-off primaries now used in many of our states.

The courts of several states have declared the proportional representation system unconstitutional under the state constitution, because the voters are not given the right to vote for a candidate for every office to be filled on a board, but the opinion in most states where the matter has come before the courts seems to be that there would be no objection to any system permitting the elector to vote a first choice for as many candidates as there are offices to be filled. There could hardly be any objection in such states, therefore, to the vote-and-a-half system, which simply adds a half-vote to the whole votes now allowed, and in no way deprives the elector of his right to vote for a candidate for every office to be filled. If necessary, of course, the state constitution could be amended to permit the use of the system.

Where proportional representation is constitutional, the vote-and-a-half system as described can easily be converted into a very practical and easily operated proportional representation device for the election of groups of officers or legislators. As compared with the Hare system (the single transferable vote, which must be counted at a central office), or the list system (which is based on party tickets), the vote-and-a-half proportional representation system is not quite so thoroughgoing, but it will normally prove effective, and it is incomparably simpler to vote and to count, and can be applied to the election of any board on a partisan or non-partisan basis, requires much less ballot space, and votes can be counted at the precincts or at a central office or offices as desired. As compared with the cumulative vote system of securing minority representation, the vote-and-a-half proportional representation system is more accurate, may be applied to the election of any group without adjustment, is simpler to vote and requires less ballot space, and is less likely to penalize the majority because of concentration of voting strength. All that is required to make the vote-and-a-half system function as a proportional representation system is simply to apply the limited vote de-

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vice, namely, permit the elector to vote only one whole vote and one half-vote for the candidates for positions on a board or commission or group of several members. In this way minorities will be enabled, by concentrating their vote, to elect their share of members on the board or commission, since majorities, to elect their share, will have to spread their vote, and so will reduce the plurality required to elect. The operation of the system is similar to that of the Hare system, but without the quota feature and other complications.

The following draft shows how the vote-and-a-half system could be set up. The provisions of the draft would, of course, need to be properly amended into the law of each state to fit its present election arrangements.

"*Section 1.* In all elections in which candidates are voted upon for nomination or for election to office, each elector qualified to vote may cast for each office or group a half-vote in addition to each whole vote he is entitled to cast. This shall not apply to voting on questions or propositions.

Section 2. Half votes may be cast for any candidate or candidates except those for whom a whole or a half-vote has been cast.

Section 3. Improperly cast half-votes shall not be counted, and they shall not affect properly cast whole votes.

Section 4. When more than the proper number of whole votes or of half-votes have been cast for candidates for any office or group, none of the said whole votes or of said half-votes, as the case may be, shall be counted, but the other votes, whether half-votes or whole votes, which are correctly voted in every respect shall be counted.

Section 5. Half-votes shall be cast in a special column which shall be provided to the right of and of the same size as the column provided for whole votes for candidates. The columns shall be headed by the words 'Whole Vote' and 'Half Vote' respectively. This shall also apply to columns for voting for a group by a single mark or vote.

Section 6. The instructions to voters on ballots and instruction cards shall include the following statement: 'You may cast a half-vote in addition to each whole vote which you are entitled to cast for any office or group, but not for the same candidate or candidates. Make sure to use the proper column. Half-votes cannot spoil whole votes, and a majority of whole votes nominates or elects a candidate regardless of the half-votes cast. Mark half-votes the same way as whole votes.'

Section 7. Half-votes shall not affect the nomination or election to office of a candidate who receives whole votes on a majority of all the ballots cast for candidates for that office or group.

Section 8. If two or more persons receive an equal and the highest number of whole plus half-votes cast, the one who received the highest

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number of whole votes shall prevail, failing which the tie shall be determined as otherwise provided by law.

Section 9. Half-votes shall be tallied in the same manner and at the same time as whole votes, but separately, and shall be properly identified. When the tally is completed, the half-votes shall be counted and the totals properly indicated as in the case of whole votes. Immediately following or under all statements of totals of half-votes, and enclosed in parentheses, shall be indicated the effective value of such totals.

Section 10. In determining results, if no candidate, or an insufficient number of candidates, is nominated or elected for an office or group by a majority of whole votes cast for that office or group, the effective value of the half-votes cast for each candidate for that office or group shall be added to the whole votes received by each such candidate, and a plurality or the highest numbers of the resulting totals shall nominate or elect the candidate or candidates to the number required in addition to those nominated or elected by a majority of the whole votes cast.

Section 11. Unless a different intention is apparent from the context, the following terms shall have the following meanings whenever used in this or any other law of this state:

(a) Whole votes are votes cast in the ballot column devoted to whole votes, and have a full unit value if properly cast. Votes cast or provided for before the adoption of this system of voting were whole votes, and are called whole votes under this system.
(b) Half-votes are votes cast in the ballot column devoted to half-votes and have a half-unit value if properly cast.
(c) Votes and vote mean whole votes and half-votes indiscriminately.
(d) Effective value of half-votes is the full unit value of a total of such votes properly cast for a candidate, and is determined by dividing by two the total number of half-votes properly cast for such candidate.
(e) Effective vote is the total of whole votes properly cast plus the effective value of half-votes properly cast.
(f) Number of votes, total vote, and entire vote, mean the total number of whole votes properly cast, except for the determination of results of elections, when they mean the effective vote.
(g) Highest or lowest number of votes is of the effective vote.
(h) Equal number of votes is of the effective vote, and shall be resolved as provided in section 8 hereof.
(i) Majority of ballots is of the whole votes properly cast, or failing that, of the effective vote. When more candidates receive a majority vote than there are positions to be filled, those with the highest vote shall prevail.

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(j) Other terms requiring interpretation in connection with this system shall be so construed as to further this plan of voting, and in no way to reduce the rights and privileges of electors.

Section 12. If for any reason this system of nominating and electing by whole votes and half-votes is declared by a court having final jurisdiction of the matter to be invalid as applied to any office or offices, it shall cease to apply to such office or offices, but the applicability of the system to other offices shall not be affected. If any detail or feature of this system of nominating and electing which is not of such a nature as to be indispensable to the proper operation of the system is declared invalid by such a court, such detail or feature shall accordingly be omitted or modified, but other details or features shall continue to be used and observed."

The adoption of the vote-and-a-half system and its acceptance by the electorate will, it is believed, bring about majority choice by plurality vote in single elections, and effectively solve the problem of democratic control when there are more than two candidates for a position, or when two or more positions are grouped and there are more candidates than positions.

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British Political Parties in 1933.[1] The present confusion in British parliamentary life results from three irreconcilable elements. In the first place, the House of Commons resembles the typical Continental legislative chamber in its division into groups, with an only provisional coalition of some of them into what might be called indifferently a *union sacrée*, or a "government of concentration." In the second place, the active political life of the electorate, being based on the traditional political parties, seems to have very little relation to parliamentary groupings. In the third place, the government shows a tendency to borrow its policies from the program of the opposition. Examination in turn of each of the three elements may reveal whatever coherence exists.

If one starts to enumerate groups in the House of Commons from "right" to "left," one finds on the extreme right the "die-hards," next to them the middle-of-the-road or Baldwin conservatives, and next to them the "young" conservatives. These three groups all receive the Conservative whip, support the National Government, and (sometimes grudgingly) follow Baldwin. A trifle farther to the left are the Liberal Nationals, or "Simonites," the Liberals who allied themselves with the Conservatives in the election of 1931. They receive the government whip, and their own whip also. To their left, and the last group supporting the government, is the National Labor party, i.e., Mr. MacDonald and his former Labor followers, now separately organized.

Since the new session of Parliament was opened in November, 1933, the opposition has consisted of three groups. First are the Liberals. From the meeting of the new parliament in 1931 until September 28, 1932, they supported the government, and their leaders were members of it. From September, 1932, until November 21, 1933, they sat below the gangway on the government side. In November, 1933, they crossed the house and joined the opposition. To the left of the Liberals are the four members of Mr. Lloyd George's "family party" who were elected in 1931 as Independent Liberals opposing the government. The Labor party is at the extreme left of the present House.[2] There are no Communists, nor any representatives of an organized Fascist group.

As so far analyzed, the House of Commons clearly resembles a Continental legislative chamber. But if the groups are the effective element, in politics at the moment, the three great organized parties will reassume

[1] This article is based largely on information obtained privately in London. For events in the autumn of 1933, I have relied particularly on the *Manchester Guardian* (daily edition) and *The Week* (London).

[2] The three I.L.P. members are perhaps technically a separate group.

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their position as soon as the *union sacrée* is dissolved. It is of parties, therefore, that any detailed analysis is properly made.

The Conservative party is at present the largest in the country.[3] To its traditionally Tory and conservative membership it has recently added many who twenty years ago either were or would have been Liberals, and has had a corresponding influx of Liberal ideas. Its post-war success has made it the party of almost every young man of moderate views with a career in politics to make. A party thus overgrown and heterogeneous is bound to have difficulties of leadership and to show a tendency to faction. Its titular leader, Mr. Baldwin, seems impregnable in spite of incessant attack. His leadership, however, is based on necessity rather than on his policies or personal qualities. He is invaluable because he alone can command the allegiance of the parliamentary party as a whole. But he has seldom sponsored a policy; perhaps he has never converted anyone to a policy. Greatly liked and admired in parliamentary circles because he "plays the game" in traditionally decent fashion, he is the object of unbelievable detestation on the part of many young men interested in politics because he lacks definiteness in policy and ability to command.

For some years there have been two ultra-conservative groups in the Conservative party. One is the "die-hards" who have retained a pre-1911 view of the proper balance of the constitution, and who began again in November, 1933, to push for House of Lords reform. The other is the tariff reformers. To some extent, they are identical; and they have been joined by those Conservatives who oppose the National Government's Indian policy. Led by Winston Churchill (who sits below the gangway on the government side of the House) and Lord Lloyd, and with the complete approval of Brigadier-General Page Croft and his tariff reformers, the reactionaries of the Conservative party are fighting the government policy in India—a policy which, it appears, is already more to the right than the country as a whole approves. In foreign affairs, this group has a policy which is distinctive though superficially self-contradictory. They are strongly pro-French and anti-German, with, however, a tendency to approve Hitlerism. The "die-hards," as the whole group are usually called, have strong support in the cabinet. The not infrequent predictions of a split in the Conservative party are based on the assumption that they will either leave Mr. Baldwin or get rid of him.

The center of the Conservative party is loyal to Mr. Baldwin and to

Percentage of popular vote (excluding uncontested constituencies)

Election	*Conservative*	*Liberal*	*Labor*
1924	48.3	17.6	33.0
1929	38.2	23.4	37.1
1931	54.9	10.2	30.7

See *Constitutional Year-Book, 1933*, p. 266.

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any policies which he may adopt. On the left are the "young" conservatives, who demand a policy both more liberal and more socialistic than the mass of members of the parliamentary party approve.

The Liberal party, already split by Mr. Lloyd George in 1916 and never reunited in sentiment, was split again in 1931. One group is led by Sir John Simon, who just before the financial crisis of 1931 definitely separated himself from the Liberal party but (when the crisis arrived) had not yet found a political home elsewhere. They owe their seats largely, if not entirely, to the complaisance of the Conservative machine, and if rather more liberal in their ideas than the Conservatives, are not distinguishable in conduct from those with whom their political fortunes are bound up. These Liberal Nationals, as they are called, are (by implication) exiles from the Liberal party. That is to say, their leaders do not speak in national gatherings of the party, nor hold party office, and except in constitutencies which they represent, they have no local organizations. Mr. Lloyd George also separated himself from the Liberal party in 1931. He and his "fund" are now outside the only party in which he has ever been entitled to claim a home; he has not yet perfected other arrangements.

Sir Herbert Samuel, then, was left the leader of a party strangely small in the House of Commons, but much more powerful and more united in the country than the divisions of the parliamentary party would suggest. His followers control the central party organization and the National Liberal Federation, and the party organizations in the constituencies are faithful to them.

Though the Liberals are still believers in a modified individualism, their chief distinctive tenet is a continued faith in free trade. In the election of 1931 it was understood—in fact it was agreed—that the tariff should not enter into the contest, that a National victory was not to be considered a victory for tariff reform. But not only did the election return a majority of Conservatives; a clear majority of the House of Commons were Conservatives who wanted tariffs, and who maintained that their success had given them the right to insist on them. The fiscal program of the reconstituted National Government was found to center around protective tariffs. The Liberals, both in the cabinet and outside, were bitterly displeased; but because they believed in the existence of a national emergency, and were honest in their support of a national government, they did not oppose the emergency tariffs. When, however, it was proposed to make tariffs permanent, they objected and received the curious privilege, spoken of by Mr. MacDonald as an emendation of the constitution, of opposing the government's policy in House and country while remaining in the cabinet. The Imperial Conference at Ottawa was the breaking point. After it, the Liberal ministers resigned from the

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government, but continued to give it support in other matters, and took their seats below the gangway on the government side. Here they gave dissatisfaction to everyone, including themselves. The Scarborough conference of the National Liberal Federation in the spring of 1933 spent most of its time attacking the government and pointing out the unreality of the position of the Liberals in Parliament, but agreed in saying that it was entirely a matter for the judgment of the parliamentary party as to when they should cross the floor of the House and go into opposition. With an ineptitude which has characterized their strategy for several years, and which may be ascribed to ineffective leadership, they waited to do so until their action had almost ceased to count. They crossed in November, 1933.

The Labor party, like the Liberal party, was split in 1931 more in appearance than in actuality, and the parliamentary situation does not represent the feeling of the country. The parliamentary Labor party witnessed the loss of Mr. MacDonald, Mr. Snowden, Mr. Thomas, and a dozen of their followers without regret. In the country, it is true, the prestige of the party was for the moment much hurt by the loss of MacDonald, for although his influence with his colleagues was already gone, his persuasiveness with the masses had survived. But his loss was a good deal counterbalanced by Mr. Henderson's loyalty to the party; for Mr. Henderson was as popular with the masses as was Mr. MacDonald. Unfortunately, Mr. Henderson failed of reëlection to the House of 1931, along with most of the former Labor ministers.[4] His place as leader of the opposition was taken by Mr. George Lansbury, former First Commissioner of Works, whose chief coadjutors on the front opposition bench have been Major Attlee, former postmaster-general, Sir Stafford Cripps, former solicitor-general, and Colonel Josiah Wedgwood, a member of the Labor cabinet of 1924. Though these men have led a surprisingly effective opposition, it cannot be denied that Labor in the House of Commons suffers from a lack of capable speakers. Some of the most useful routine work of the opposition has been done by Labor members previously unacquainted with the subject under debate, but ably briefed over a period of time by the Labor Research Bureau in Transport House, of which Mr. Arthur Greenwood, former minister of health, is director.

Up to the split in 1931, the Labor party had wavered between a desire for "socialism in our time" and a belief in the "inevitability of gradualness." On the whole, the strong trades-union elements in the party were at most mildly reformist socialists, while the bourgeois and intellectual elements, which have been stronger in the House of Commons than in the

[4] Thirteen members of the cabinet of 1929–31 and 21 other ministers were defeated. Mr. Henderson was reëlected in August, 1933, at a by-election in Clay Cross.

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country, wanted to carry out a definitely socialist policy. Though Mr. MacDonald was a bourgeois intellectual, he led a government whose policy was only slightly tinged with socialism, and when he left it, he left a party quite unsure of what it actually stood for. The subsequent two years have been a period in which the national executive of the Labor party has been making serious and largely successful efforts to formulate a policy to which the party can be pledged both in opposition and in power.[5] This policy has inevitably been more of the left than earlier Labor policies have been, and the temper of the annual Labor party conferences in Scarborough, Leicester, and Brighton has been firmly socialistic. But a certain difference in point of view remains, and resulted in the famous controversy over dictatorship in the summer of 1933.

The Independent Labor party, so long the chief socialist society affiliated with the Labor party, had put itself into an uncertain position in relation to the larger organization by its policy of working with Communists.[6] As a result, it split, and those of its members who continued in the Labor party formed the Socialist League, which has published recently a series of brilliantly written pamphlets dealing with various items of policy of a Socialist government.[7] The keynote of the League's policy on the political side is an assumption that private capital would resist a majority Socialist government by economic means and by using the House of Lords.[8] The League therefore believes that a Labor majority would have to start by causing Parliament to pass an emergency powers act giving them temporary control of the whole government.

Perhaps most persons (Socialists and anti-Socialists alike) who are in close touch with politics believe that a majority Labor government with a socialist policy would find itself faced with precisely the sort of opposition which the Socialist League premises. For a variety of reasons, however, Mr. Walter Citrine, secretary of the Trades Union Congress, openly opposed the intention of the Socialist League to create a "dictatorship," and what appeared to begin as a debate between Sir Stafford Cripps and Mr. Citrine was made a party issue in the Labor party conference

[5] Four official "policy reports" were issued in November, 1932: *The Land and National Planning of Agriculture; The Reorganization of the Electricity Supply Industry; The National Planning of Transport;* and *Currency, Banking, and Finance.* In August, 1933, Transport House issued three more: *Socialism and the Condition of the People; The Colonies;* and *Housing and Slums.*

[6] The Labor party has definitely taken the position that no Communist or Communist organization may be affiliated with it.

[7] Most of the important ones were republished in the summer of 1933 as *Problems of a Socialist Government,* with an introduction by Sir Stafford Cripps. This volume is invaluable as a presentation of what will probably be the maximum plans of a Labor government if such a government soon comes into being.

[8] In England, one does not mention the monarchy in this connection.

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at Brighton in September, 1933. The conference voted its disapproval of dictatorship, whether of the right or of the left. This controversy encouraged the leaders of the Conservative party (*pace* their own emergency legislation of 1931) to come forward as defenders of democracy and parliamentarianism.[9]

The results of certain by-elections in the fall of 1933 have greatly encouraged the Labor party, and have raised the question again as what will be the future of the present coalition. In a straight fight in East Fulham, ordinarily safely Conservative, between a Conservative and a Socialist, the Socialist won, largely by campaigning as an extreme pacifist, and as an opponent of the rearmament which the government was quietly conducting and which the Conservative candidate approved. Even more significant was considered the result in the Stamford and Rutland division on November 21. In this aristocratic and purely agricultural constituency, the Conservative candidate won, but his majority was only 1,787—smaller by 11,640 votes than the Conservative majority two years ago. And Labor's vote was up by 5,372.

The increasing unpopularity of the National Government raises the question of the future. Certain indications of possible policy seem safe to record. If the die-hards should leave the National Government over India, when the report of the committee on White Paper is finally made early in 1934, there might be a middle coalition on a new basis, liberal in all but name, and composed of the bulk of the Conservatives and of most of the Liberals. The leader would be Mr. Baldwin. Mr. MacDonald's fears of some such development were revealed by his carefully concealed negotiations last summer with Mr. Winston Churchill and Lord Lloyd with a view to continuing the MacDonald National Government on a die-hard basis if necessary. But since the Liberals went into opposition, the National Government tends more toward the right, and the Conservative party is less likely to break up because the government's policy is more conservative. Can, then, the Liberals find a working basis for an agreement with Labor either in Parliament or in the country? It seems clear that Labor will not consent, and that except sporadically in individual constituencies the Liberal party will continue to be ground smaller and smaller between the upper and nether millstones.

The long-continued coalition of 1918–22 based on a Conservative majority ended in a strictly Conservative government. Should not similar conditions have a similar outcome now, since the National coalition is

[9] The debate between Cripps and Citrine was in the *New Clarion*, a weekly paper representing the Labor left. An article in the June 17 number, by Professor Harold J. Laski, analyzes the controversy. Mr. Baldwin stated his views in an article entitled "The New Tyranny" in *The News-Letter: The National Labor Fortnightly* for July 22, 1933.

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unpopular and the crisis past? Probably most Conservatives would prefer this solution, for they feel that so large a Conservative majority should no longer be prevented from seeking purely Conservative aims. The first obstacle is Mr. Baldwin's loyalty to Mr. MacDonald. The second is the fact that power is still in the hands of Mr. MacDonald, who—even his strongest opponents admit—has lost none of his deftness in political manipulation.

Many politicians have suggested a new election fought on a "national" basis. Such an election might be a success, since the government still has a certain reserve control over the press and the radio. A new "national" election is the avowed desire of National Labor members and "Simonites," who see their seats unsafe without Conservative support. The great obstacle in its way is the unwillingness of the Conservatives to carry National Labor and Liberal Nationals any longer than they must.

It seems probable, therefore, that things will remain as they are until accident rearranges them. Toward the end of the life of Parliament, probably in the autumn of 1935 or the spring of 1936, a general election will be necessary. It is likely to result in a situation like that of 1929 when Labor was the largest party but had no majority. It might possibly result in a Labor majority.

Opposition to parliamentary government, under any arrangement of parties, is probably weaker in England today than in any other large country in the world. The Communists—who are orthodox Communists —appear not to have increased in numbers during the recent stages of the depression, and are perhaps less militant than a few years ago. Any danger of an anti-parliamentary movement which exists is Fascist. The avowed Fascists, who are professedly anti-parliamentary, claim to be growing rapidly in numbers and to be keeping their membership secret until the moment when they can rise and take control.[10] They do not, however, present the real Fascist threat to the community. That threat is provided by three elements: (1) the feeling of sympathy for Hitlerism on the part of important persons and interests in the City, (2) the Fascist desires, almost avowed, of the Beaverbrook press, and (3) the presumed aims, thought to be incompatible with any possible parliamentary majority, of such men as Lord Lloyd and Lord Trenchard.[11]

Assuming that England remains parliamentary, only one word need be said about future policy. Capitalism of the old individualistic sort is not merely doomed but gone. The whole country is converted to a planned

[10] A reasonable estimate in November, 1933, was that they numbered about 100,000.

[11] Lord Lloyd, formerly high commissioner in Egypt, is thought to typify imperialism. Lord Trenchard, commissioner of metropolitan police, is generally believed to be militarizing the London police.

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economy. Even the National Government has increased government control, has sponsored and conducted national planning, and has centralized by a rapid extension of subsidies.[12] Many Conservatives avow their approval of a socialist program, merely desiring to keep enactment and control of it out of the hands of Socialists. The outsider, at least, will see little difference except in speed of accomplishment between the "state capitalism" of the National Government and the socialism of the Labor party.[13] Parliamentary England almost unanimously faces left.

E. P. CHASE.

Lafayette College.

Democratized Socialism Makes Gains in Norway. In no part of the world is there greater devotion to the principle of representative government than in the Scandinavian countries. Nowhere, too, are there more homogeneous, intelligent, and literate electorates. And in none of the three are party lines more sharply drawn or issues more clearly defined and presented than in Norway, where, as in all Scandinavia, there is complete freedom of discussion. Probably there is no better example in recent years of a bitterly fought election over clear-cut issues, yet conducted in a most orderly fashion, than the triennial election of October 16, 1933, in which were chosen 150 members of the Norwegian Storthing.

As in the 1930 election,[1] the contest was between the Labor (*Arbeider*) party, which is the Socialist party, on one side, and three separately organized and distinct *borgerlige* (loosely translated "bourgeois") parties on the other. Farthest to the right of these three is *Höire* (literally the Right, but loosely translated "Conservative"). Almost as far to the right is the *Bondeparti* (loosely translated "Agrarian," or "Farmers', " party). Next in order toward the left is *Venstre* (literally "the Left," but loosely translated "Radical"). This last-mentioned party was for years the real left party and the traditional opponent of the Conservatives. Since the growth of the Labor party, its position has shifted toward the right, and in the recent election its position was to the right of the center.[2] Since the election, there is appearing among some Radical leaders an inclination to move toward the left. This development will be discussed below.

[12] Cf. the Unemployment Insurance Bill introduced in Parliament in November, 1933.

[13] Perhaps the Socialist League would not quite agree. But an example is Mr. Herbert Morrison's supposedly socialistic arrangements for the consolidation of London transport, which were enacted into law almost unchanged at the behest of the National Government. See his *Socialization and Transport* (London, 1933).

[1] See this REVIEW, February, 1931, p. 152.

[2] Although the members of the Storthing are seated according to districts and not by parties, the terms right and left are used in this article—as they are by Norwegian writers—in the same sense as in French politics.

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Of the large number of minor parties in the election, only four deserve mention. One of these, the small but vigorous Communist party, which includes in its ranks some of the intelligentsia of Norway, and which prior to 1930 held several seats in a number of Storthings, failed to win a single seat in spite of the fact that it was the only group outside of the Labor party to make a gain in popular votes over 1930. Two new minor parties, the Commonwealth (mentioned below) and the Christian People's party, gained one seat each.

Only one of the minor parties, the new National Union party, was of any marked significance in the election. The National Union group led by Major Vidkun Quisling, who is sometimes called the Hitler of Norway, did not get any parliamentary seats, but its advent had a marked effect upon the whole political situation. The Quisling movement was opposed by all of the major parties, but especially by Labor. Sensing the strong public opinion against dictatorship, the bourgeois parties in general attacked Quisling. In some localities, however, notably in Bergen, the Conservatives, under the provision of the electoral law which allows combined lists in a constituency,[3] joined with the National Unionists in order to present a united front against the Socialists. This action no doubt alienated voters in many parts of Norway who would otherwise have voted with the Conservatives. In Bergen, it resulted in the election of B. Dybwald Brochmann, the picturesque founder of the new Commonwealth party. Brochmann and his followers, whose unusual slogan was "With Christ, against the Church, against the Pharisees," bitterly attacked the Norwegian Nazis.

By far the most significant result of the Quisling movement was its effect upon the Labor party. In the 1930 election, the Laborites admitted that their program was a revolutionary one and laid themselves open to attack as favoring a dictatorship of the proletariat. In 1933, without receding from their general Socialist program, they came forward as the champions of democracy and of parliamentary government, and insisted that the real danger to Norwegian traditions was the possibilities of a Nazi dictatorship. In vain did the bourgeois parties endeavor to gain support by arguing that a vote for Labor was indirectly a vote for Nazi-ism. The Laborites were able to give the contrary impression—probably a correct one—that a vote for Labor was in reality a vote against the Norwegian Fascists. Quisling and his followers polled nearly 28,000 votes, but so scattered that no seats were won.

The results of the election showed remarkable gains for the Labor party, which polled nearly half a million votes (a gain of almost 33⅓ per

[3] The members of the Storthing are elected by the list system of proportional representation.

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cent) and won 69 seats, an increase of 22 over the 1930 election. This means that the party, long the leading one in Norway, was given more popular support and captured more parliamentary seats than ever before in its history. The heaviest losers were the Conservatives, who suffered a reduction of nearly 25 per cent in their popular vote and a loss of 13 seats. The Radicals lost nine seats and the Agrarians two.

In addition to the Nazi movement, four other factors contributed to this decided shift toward the left. They are: (1) The impetus given by Socialist gains in recent elections in Denmark and in Sweden. In neither of these countries, however, were the gains so marked as in Norway. (2) Discontent with present economic conditions. Eleven per cent of the people are supported by public relief, and there are 150,000 unemployed. (3) Dissatisfaction with the bourgeois parties, which, in spite of their marked joint gains in the previous elections, had failed to coöperate effectively. (4) For the first time in its history, the Labor party received the united support of organized labor in the form of strong financial backing as well as votes on election day.

Party	*Popular Vote*			*Members Elected*		
	1927	*1930*	*1933*	*1927*	*1930*	*1933*
Labor	368,100	373,210	499,421	59	47	69
Conservative[4]	254,910	351,747	270,658	31	44	31
Radical (Left)	172,886	237,816	218,545	30	33	24
Radical Peoples'	13,413	9,384		1	1	1
Agrarian	148,874	188,868	175,108	26	25	23
Communist	40,061	20,589	23,301	3	—	—
National Union (Nazi)	—	—	27,775	—	—	—
Commonwealth party	—	—	18,974	—	—	1
Christian Peoples'	—	—	10,237	—	—	1
				150	150	150

The large advance of Labor in the 1933 election did not, however, give it a majority in the Storthing. If the bourgeois parties stick together, they may possibly continue as premier Ludwig Mowinckel, the leader of the Radicals, who has held this high post intermittently for many years. But there are evidences that some of the Radical leaders interpret the election as an indication that the popular desire is for a course somewhere between that of the Radicals in the past and the Labor party. If this view is accepted and Labor is willing, Norway may see a Radical-Labor coalition, either Mowinckel, the Radical, or Johan Nygaardsvold, the fifty-four year old mill-worker and labor union leader, who is the parliamentary leader of the Labor party, as premier.

[4] Includes the small Independent Liberal party (*Frisinnede*), which coöperates closely with the Conservatives.

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What will happen may not be known until the new Storthing meets in January. At present (December 10, 1933), the other bourgeois parties are urging that the Radicals coöperate with them. It is very evident that the Radical party is in a strategic position. The outcome, of course, will be known before this note is published.[5]

The table on the preceding page shows the results of the election compared with the two previous ones.

BEN A. ARNESON.

Ohio Wesleyan University.

[5] Much of the information on which this note is based has been obtained from recent issues of two Oslo newspapers, i.e., *Ukens Nytt* (Conservative semi-weekly) and *Arbeiderbladet* (Labor daily).

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Professor Frederick L. Schuman, who spent the summer and autumn in Germany, has resumed his work at the University of Chicago.

Professor Harvey Walker has been advanced to a full professorship at Ohio State University.

Dr. A. C. Millspaugh, of the Institute for Government Research of the Brookings Institution, is engaged upon a study of the organization of public welfare administration in the United States.

During the first half of the academic year, Dr. Raymond L. Buell, of the Foreign Policy Association, conducted a seminar at Harvard University on the nature of war and military systems.

Congressman Charles West, formerly in charge of the work in political science at Denison University, has given up his academic connection because of pressure of official duties. Dr. Albert A. Roden, formerly instructor at Princeton, has been appointed assistant professor and will take over the government courses in the new department of history and government.

Dr. Paul T. Stafford, instructor in politics at Princeton University, has completed a dissertation on *State Welfare Administration in New Jersey*. The study presents a very full account of the organization and conduct of public welfare activities under the control of the state and embraces comparisons with welfare systems in other states. It is to be published shortly by the department of institutions and agencies of the state of New Jersey.

Dr. K. R. B. Flint, professor of political science and director of the bureau of municipal affairs at Norwich University, is chairman of the Vermont state chamber of commerce committee on local finance and town reports. The chamber is waging a vigorous campaign for better municipal reports and a stabilizing of municipal expenditures. This is one of several instances in which the Norwich bureau has coöperated with the chamber in attempting to improve the standards of local government in Vermont.

Under the auspices of the U. S. Census Bureau, Dr. Lent D. Upson, director of the Detroit Bureau of Governmental Research, will conduct a federal survey of tax delinquency in 309 cities in the United states with a population of over 30,000 each.

Mr. Robert W. McCullock, graduate student at the University of Michigan, is collecting material in Great Britain, France, and Germany on the

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subject of his doctoral dissertation, i.e., questions and interpellations in parliamentary bodies.

Professor Marshall E. Dimock, of the University of Chicago, will leave early in January for a quarter's research on administrative problems growing out of business functions in the Panama Canal Zone. The invitation was extended by Secretary of War Dern, and the project will be supported as one of the University's studies in the relation between public administration and industry.

An arrangement has been effected under which the National Municipal League offers the services of Professor Thomas H. Reed, of the University of Michigan, as financial consultant in critical financial situations. The plan is similar to that under which Professor A. R. Hatton long acted for the League as a charter consultant.

A western conference on government, in which a number of national organizations will coöperate, is planned for March or April at the University of California.

A National Association of Housing Officials was organized recently and established in Chicago in connection with other governmental organizations. The acting director of the Association is Mr. Charles S. Ascher, lecturer in political science at the University of Chicago.

Professor Walther Schuecking, director of the Institute for International Law at the University of Keil, German member of the World Court, and former member of the Reichstag, was summarily dismissed at the end of November on the ground that his previous political activity did not "guarantee his whole-hearted enthusiasm for the National Socialist State."

Following the resignation of Mr. James G. McDonald in November to accept a League of Nations appointment as high commissioner for German refugees, the staff of the Foreign Policy Association was reorganized. Dr. Raymond L. Buell, research director since 1927, became president; Mr. William T. Stone, Washington representative of the organization, vice-president; and Professor Joseph P. Chamberlain of Columbia University, chairman of the board of directors, with Mr. McDonald as honorary chairman.

Under the auspices of the Committee on Policy of the American Political Science Association, a conference on problems of taxation in relation to municipalities was held at Bowdoin College on December 1–2. Topics discussed included the taxpayers' revolt and the crisis in municipal finances in New England cities and towns, the system of taxation in

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Maine, broadening the tax base, the Connecticut plan of equalizing taxes for state purposes, and the crisis in education growing out of the tax situation.

Twenty-ninth Annual Meeting of the American Political Science Association. Sixteen years ago, the fourteenth annual meeting of the Association was held at the Bellevue-Stratford Hotel in Philadelphia. The country was at war with Germany, and the program of the meeting was studed with titles of papers and discussions called out by the tense international situation. On December 27–29, 1933, the Association's twenty-ninth meeting was held in the same hotel in the same city, and the program abounded in titles of papers and discussions called out by another war in which the country was engaged—a war this time upon economic depression, and one for which the nation had lately been mobilized almost as dramatically as in 1917. On the former occasion, 125 members registered at the meeting; on the latter, 360, comparing with 200 at Detroit in 1932, 353 in Washington in 1931, and 317 at Cleveland in 1930. Following practice of recent years, nearly all of the sessions took the form of round-table or section meetings, which were generally well attended.

The program in full was as follows:

WEDNESDAY, DECEMBER 27, AT 10 O'CLOCK

1. *Government and Education.*

   Chairman: Ben A. Arneson, Ohio Wesleyan University.

   (1) "The Goal of Civic Education in the United States," C. E. Merriam, University of Chicago; (2) "The Development of Civic Education," George F. Zook, United States Commissioner of Education.

   Discussion leaders: George S. Counts, Columbia University; Earl W. Crecraft, Municipal University of Akron.

2. *International Relations.*

   Chairman: Clyde Eagleton, New York University.

   General Topic: "Methods of International Legislation."

   (1) "Problems of International Legislation," Valentine Jobst, III, University of Illinois; (2) "Methods of the International Labor Organization," Francis Wilson, University of Washington.

   Discussion leaders: J. I. Knudson, Brooklyn Polytechnic Institute; Phillips Bradley, Amherst College.

3. *Local Government.*

   Chairman: Wylie Kilpatrick, Public Works Administration.

   General Topic: "Adapting Local Government to the Strains of the Depression Period."

   "Flaws of the Fiscal Structure Revealed by the Impact of the Depression," Joseph McGoldrick, Columbia University; William C.

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Beyer, Director, Bureau of Municipal Research, Philadelphia; Edward Carter, University of Pennsylvania; Welles A. Gray, United States Chamber of Commerce.

4. *Legislation.*

Chairman: Rodney L. Mott, American Legislators' Association.

General Topic: "LEGISLATION AND RESEARCH." (Joint round table with the American Association for Labor Legislation.)

(1) "What Research a Legislator Needs," Philip Sterling, Pennsylvania General Assembly; (2) "The Interim Commission as a Research Agency," Seabury C. Mastick, New York State Senate; (3) "The Research Activities of the Legislative Reference Bureau," Edwin E. Witte, University of Wisconsin (4) "Private Organizations and Legislative Research," John B. Andrews, American Association for Labor Legislation.

5. *Public Administration.*

Chairman: Finla G. Crawford, Syracuse University.

Presiding Officer: George W. Spicer, University of Virginia.

"The Federal Emergency Relief Administration," Leon Sachs, Johns Hopkins University.

Discussion Leaders: John W. Manning, University of Kentucky; Royden J. Dangerfield, University of Oklahoma; Malcom H. Bryan, University of Georgia; E. Glenn Callen, Nebraska Wesleyan University.

WEDNESDAY, DECEMBER 27, AT 12.30 O'CLOCK

Subscription Luncheon.

Presiding Officer: Jesse S. Reeves, University of Michigan.

"The Rôle of the Senate in the Making of Treaties," D. F. Fleming, Vanderbilt University.

Discussion Leaders: Royden J. Dangerfield, University of Oklahoma; Elbert D. Thomas, United States Senator from Utah.

WEDNESDAY, DECEMBER 27, AT 2.30 O'CLOCK

1. *Political Parties and Electoral Problems.*

Chairman: James K. Pollock, University of Michigan.

General Topic: "THE PARTY AS CONDUCTOR AND CRITIC OF THE GOVERNMENT.

(1) "Party Control in the 73rd Congress," Pendleton Herring, Harvard University; Charles West, Member of Congress from Ohio; (2) "The Republican Party as Critic of the Administration," speaker to be announced.

2. *Public Law.*

Chairman: Edwin M. Borchard, Yale University.

General Topic: "PROPOSED STATUTES GOVERNING FEDERAL, STATE, COUNTY, AND MUNICIPAL RESPONSIBILITY FOR WRONGFUL AND INJURIOUS ACTS OF PUBLIC OFFICIALS AND EMPLOYEES."

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"The Federal Tort Claims Bill," F. F. Blachly, the Brookings Institution; Walter F. Dodd, Chicago; Albert R. Ellingwood, Northwestern University; John A. Fairlie, University of Illinois; Oliver P. Field, University of Minnesota; Charles G. Haines, University of California; Murray Seasongood, Cincinnati; E. Blythe Stason, University of Michigan; C. W. Tooke, New York University.

3. *Political Theory.*

Chairman: Benjamin E. Lippincott, University of Minnesota.

General Topic: "THE RELATION OF GOVERNMENT TO THE ECONOMIC ORDER."

(1) "The Distribution of Control and Responsibility in a Modern Economy," Gardiner C. Means, Columbia University; (2) "The Economic Limitations of Governmental Control," Gerhard Colm, Graduate Faculty of Political and Social Science, New York (formerly of the University of Kiel).

Discussion Leaders: Phillips Bradley, Amherst College; W. Y. Elliott, Harvard University; J. Mark Jacobson; A. N. Holcombe, Harvard University; Walter Thompson, Stanford University.

4. *Comparative Government.*

Chairman: Roger H. Wells, Bryn Mawr College.

General Topic: "PUBLIC PERSONNEL PROBLEMS: A COMPARATIVE SURVEY, 1929–1933."

(1) "The Civil Service Under a Change of Régime in Spain," A. N. Christensen, University of Minnesota; (2) "The Nazification of the German Civil Service," Regierungsrat Dr. Fritz M. Marx, Hamburg; (3) "The French Public Service and the Economic Crisis," Walter R. Sharp, University of Wisconsin.

Discussion Leaders: Pedro Fernandez, New York University; Johannes Mattern, Johns Hopkins University; F. F. Blachly, Brookings Institution.

5. *Political Aspects of the New South.*

Chairman: John W. Manning, University of Kentucky.

General Topic: "NATIONALIZATION AND CENTRALIZATION IN THE SOUTH."

(1) "The Southern Philosophy of States' Rights and Growing Centralization," Charles W. Pipkin, Louisiana State University; (2) "Some Aspects of the Tennessee Valley Development," D. W. Knepper, Mississippi State College for Women.

Discussion Leaders: Robert Rankin, Duke University; Miss Harriet Elliott, University of North Carolina; A. B. Butts, Mississippi State College; Irby R. Hudson, Vanderbilt University; L. V. Murphy, U. S. Civil Service Commission.

WEDNESDAY, DECEMBER 27, AT 8 O'CLOCK

Presidential Address.

Presiding Officer: Roland S. Morris, Former Ambassador to Japan.

(1) "Race Contacts and the Historical Process," E. B. Reuter, Uni-

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versity of Iowa, President of the American Sociological Society; (2) "A Liberal Theory of Constructive Statecraft," A. P. Usher, Harvard University, Vice-President of the American Economic Association; (3) "Fact and Fiction in Government," Isidor Loeb, Washington University, President of the American Political Science Association.

THURSDAY, DECEMBER 28, AT 10 O'CLOCK

1. *Government and Education.*

   Chairman: Ben A. Arneson, Ohio Wesleyan University.

   (1) "How a State Department Looks upon the Program for the Improvement of Civic Education," George M. Wiley, Assistant Commissioner of Education of the State of New York; (2) "What the College Teacher May Do to Improve the Teaching of High School Civics," Howard White, Miami University; (3) "Political Clubs as Agencies in Civic Education," William E. Mosher, Syracuse University.

   Discussion Leaders: F. A. Middlebush, University of Missouri; M. M. Chambers, Ohio State University.

2. *International Relations.*

   Chairman: Clyde Eagleton, New York University.

   General Topic: "Revision of Treaties".

   (1) "Revision in Current Practice," Harold Tobin, Dartmouth College; (2) "Revision Clauses in Treaties Since the War," R. R. Wilson, Duke University.

   Discussion Leaders: Thorsten Kalijarvi, University of New Hampshire; Winchester H. Heicher, New York University.

3. *Local Government.*

   Chairman: Wylie Kilpatrick, Public Works Administration.

   General Topic: "Adapting Local Government to the Strains of the Depression Period."

   (1) "Shaping Functions to Satisfy Demands upon Local Government During the Depression," Roland Egger, University of Virginia; Miss Mabel L. Walker, Secretary, General Welfare Tax League; Charles Eliott, Secretary, National Planning Board; John F. Sly, West Virginia University.

4. *Legislation.*

   Chairman: Rodney L. Mott, American Legislators' Association.

   General Topic: "Legislative Planning."

   (1) "Legislative Reference Bureaus as Legislative Planners," Horace E. Flack, Executive, Maryland Department of Legislative Reference; (2) "Pre-Session Conferences of Legislators and Experts," John W. Manning, University of Kentucky; (3) "Legislative Planning Council," Henry Reining, Jr., University of Southern California.

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5. *Public Administration.*

Chairman: Finla G. Crawford, Syracuse University.

Presiding Officer: Leonard D. White, University of Chicago.

(1) "The New York Emergency Relief Administration," Robert F. Steadman, Syracuse University; (2) "The Ohio Relief Administration," S. Gale Lowrie, University of Cincinnati; (3) "The New Jersey Relief Administration," Joseph D. Sears, Deputy State Director, New Jersey Relief Administration; (4) "The Illinois Relief Administration," Charles W. Kneier, University of Illinois.

THURSDAY, DECEMBER 28, AT 12.30 O'CLOCK

Subscription Luncheon.

Report of the Committee on Policy and its Sub-Committees.

Presiding Officer: Thomas H. Reed, *General Chairman.*

(1) "Sub-Committee on Political Education," Harold W. Dodds, Princeton University; (2) "Sub-Committee on Publications," Benjamin F. Shambaugh, State University of Iowa; (3) "Sub-Committee on Personnel," John M. Gaus, University of Wisconsin; (4) "Sub-Committee on Research," Arnold Bennett Hall, The Brookings Institution.

THURSDAY, DECEMBER 28, AT 2.30 O'CLOCK

Annual Business Meeting and Reports of Officers.
Presiding Officer: President Isidor Loeb.

THURSDAY, DECEMBER 28, AT 8 O'CLOCK

General Session.

Presiding Officer: Robert C. Brooks, Swarthmore College.

"Political Science in the Service of the State," Raymond Moley, Columbia University, and Editor of *Today.*

Discussion Leaders: Peter Odegard, Ohio State University; Benjamin F. Shambaugh, State University of Iowa.

FRIDAY, DECEMBER 29, AT 10 O'CLOCK

1. *Political Parties and Electoral Problems.*

Chairman: James K. Pollock, University of Michigan.

General Topic: "PARTY ORGANIZATION AND PERSONNEL"

(1) "The Function of a National Committee in Party Government," James A. Farley, Postmaster-General; (2) "The National Committee," Thomas S. Barclay, Stanford University; (3) "Ward Leaders in Philadelphia," J. T. Salter, University of Wisconsin; (4) "Party Organization in New York City," Roy V. Peel, New York University; (5) "Party Organization in Indiana," Robert Phillips, Purdue University.

Discussion Leaders: C. Bascom Slemp and Harry A. Mackey.

2. *Public Law.*

Chairman: Edwin M. Borchard, Yale University.

General Topic: "PROPOSED STATUTES GOVERNING FEDERAL, STATE,

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COUNTY, AND MUNICIPAL RESPONSIBILITY FOR WRONGFUL AND INJURIOUS ACTS OF PUBLIC OFFICIALS AND EMPLOYEES.

"The Proposed Statutes on State, County, and Municipal Liability," F. F. Blachly, The Brookings Institution; Walter F. Dodd, Chicago; Albert R. Ellingwood, Northwestern University; John A. Fairlie, University of Illinois; Oliver P. Field, University of Minnesota; Charles G. Haines, University of California; Murray Seasongood, Cincinnati; E. Blythe Stason, University of Michigan; C. W. Tooke, New York University.

3. *Political Theory.*

Chairman: Benjamin E. Lippincott, University of Minnesota.

General Topic: "THE RELATION OF GOVERNMENT TO THE ECONOMIC ORDER."

"The Relationship Between the State and Cartel Development in Germany," Otto Nathan, Princeton University (formerly economist of the Reichswirtschaftsministerium).

Discussion Leaders: Emil Lederer, New School for Social Research (formerly University of Berlin); Arthur Macmahon, Columbia University; John Dickinson, Assistant Secretary of Commerce; John Thurston, Brookings Institution.

4. *Comparative Government.*

Chairman: Roger H. Wells, Bryn Mawr College.

General Topic: "PUBLIC PERSONNEL PROBLEMS: A COMPARATIVE SURVEY, 1929–1933."

(1) "Public Personnel Problems in the Balkans," Joseph S. Roucek, Pennsylvania State College; (2) "Contemporary Trends in the British Public Service," Leonard D. White, University of Chicago; (3) "American Federal Personnel Problems," Luther C. Steward, President, National Federation of Federal Employees.

Discussion Leaders: Harvey Walker, Ohio State University; William C. Beyer, Director, Bureau of Municipal Research, Philadelphia.

5. *Political Aspects of the New South.*

Chairman: John W. Manning, University of Kentucky.

General Topic: "NATIONALIZATION AND CENTRALIZATION IN THE NEW SOUTH.

(1) "The Effects of Reorganization Upon the Philosophy of Local Self-Government in the South," K. P. Vinsel, University of Louisville; (2) "Centralization and Integration in State Governments in the South," F. W. Prescott, University of Chattanooga.

Discussion Leaders: C. B. Gosnell, Emory University; W. C. Jackson, University of North Carolina; George Sherrill, Clemson College; G. W. Spicer, University of Virginia; Robert Tucker, Washington and Lee University.

FRIDAY, DECEMBER 29, AT 12.30 O'CLOCK

Subscription Luncheons.

JOINT SESSION WITH THE GENERAL WELFARE TAX LEAGUE.

Presiding Officer: Harold S. Buttenheim, Editor, *The American City.*

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General Topic: "GENERAL SALES TAX IN THE UNITED STATES."

(1) "Summary and Underlying Causes of Recent Trend to General Sales Taxes," Carl Shoup, Columbia University; (2) "General Sales Taxation in Relation to Ability Theory of Taxation," James W. Martin, University of Kentucky; (3) "Administrative Problems of General Sales Taxation," Mark Graves, New York State Tax Commission.

FRIDAY, DECEMBER 29, AT 2.30 O'CLOCK

General Session.

Presiding Officer: Robert Luce, Member of Congress from Massachusetts and First Vice-President of the Association.

"Political Aspects of the New Deal," John Dickinson, Assistant Secretary of Commerce.

Discussion Leaders: Edward S. Corwin, Princeton University; Lewis L. Lorwin, The Brookings Institution.

The Secretary-Treasurer reported a total membership of 1,834, composed as follows: life members, 46; sustaining members, 9; annual and associate members, 1,779. The effects of the continued depression and of academic retrenchments were seen in a decline of membership by 55, as compared with six in the preceding year. This record was, however, substantially better than that of nearly all other learned societies during the period. The Secretary-Treasurer's financial report for the year showed receipts of $9,558.57 and expenditures of $9,407.53, and a budget for 1934 was adopted estimating receipts at $7,583.00 and expenditures at $7,460.00.

At the annual business meeting, officers for 1934 were elected as follows: president, Walter J. Shepard, Ohio State University; first vice-president, C. H. McIlwain, Harvard University; second vice-president, Robert E. Cushman, Cornell University; third vice-president, Quincy Wright, University of Chicago; secretary-treasurer, Clyde L. King, University of Pennsylvania; members of the Executive Council for the term ending December, 1936: Eugene Fair, Kirksville State Teachers College; R. K. Gooch, University of Virginia; O. C. Hormell, Bowdoin College; N. D. Houghton, University of Arizona; and H. C. Nixon, Tulane University.

In connection with a report of the Managing Editor of the REVIEW summarizing the contents of Volume XXVII (1933), commenting on various aspects of editorial policy, and indicating economies adopted during the year, the decision was reached to continue publication under existing financial arrangements except that the sum of $600 previously granted by the Committee on Policy for editorial assistance was diverted to the general cost of printing and distribution. Two members of the Board of Editors whose terms expired at this time, Walter F. Dodd and Leonard D. White, were reëlected, and Robert C. Brooks, Arthur N. Holcombe, and Charles G. Haines were newly elected, for the customary two-year term.

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As reconstituted for 1934, the Committee on Policy is organized as follows:

General Chairman: Thomas H. Reed, University of Michigan

Ex-officio members:

Walter J. Shepard, Ohio State University
Clyde L. King, University of Pennsylvania
Frederic A. Ogg, University of Wisconsin

Sub-committee on Research:

Arnold B. Hall (chairman), Brookings Institution
Charles E. Merriam, University of Chicago
Charles A. Beard, New Milford, Conn.
James Hart, Johns Hopkins University

Sub-committee on Political Education:

Arthur N. Holcombe (chairman), Harvard University
Earl W. Crecraft, University of Akron
Cullen B. Gosnell, Emory University

Sub-committee on Personnel:

John M. Gaus (chairman), University of Wisconsin
William Anderson, University of Minnesota
Luther Gulick, Columbia University

Sub-committee on Publications:

Francis W. Coker (chairman), Yale University
Ben A. Arneson, Ohio Wesleyan University
Finla G. Crawford, Syracuse University

Among reports received and filed were those of Thomas H. Reed as general chairman of the Committee on Policy (see p. 124); William Anderson as representative of the Association in the Social Science Research Council; John A. Fairlie for the *Encyclopaedia of the Social Sciences;* and Frederic A. Ogg as representative in the American Council of Learned Societies and on the board of directors of *Social Science Abstracts.*

Discussion of the place of meeting in 1934 brought out an informal expression of preference, in a joint session of the Executive Council and Policy Committee, for Chicago, with Washington second and Atlanta third; and at the business session a sense motion was adopted favoring a meeting that should be independent of the meetings of other associations, although not necessarily in a different city. In accordance with custom, however, final decision as to place was left to the Executive Council.

Subsequent to the meeting, a committee on program for 1934 was appointed as follows: Walter R. Sharp (chairman), University of Wiscon-

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sin; Louise Overacker, Wellesley College; Harold D. Lasswell, University of Chicago; Lent D. Upson, Detroit Bureau of Municipal Research; and Amry Vandenbosch, University of Kentucky. Also a committee to nominate officers for 1935 as follows: Arthur W. Macmahon (chairman), Columbia University; Frederick A. Middlebush, University of Missouri; Edwin S. Corwin, Princeton University; James K. Pollock, University of Michigan; and Frank M. Stewart, University of California at Los Angeles.—F.A.O.

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REPORT OF THE COMMITTEE ON POLICY OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION FOR THE YEAR 1933

THOMAS H. REED, GENERAL CHAIRMAN
University of Michigan

Three years have now elapsed since the Committee on Policy was set up in its present form at the Cleveland meeting of the Association. With the 1933 meeting, the terms of the general chairman and of the chairmen of certain sub-committees expire. The grant from the Carnegie Corporation now has only a year and a half to run, and a request for its renewal must be made this year. It is appropriate, therefore, that this report summarize what has been accomplished in the past three years of committee activity.

Behind the organization of the Committee on Policy was the purpose of making the American Political Science Association—in other words, the political science profession—more mobile, more articulate, and more effective. It has sought to approach these ends by organizing sub-committees and giving them an opportunity for meeting; by promoting conferences with politicians, and with educationists and school authorities; by aiding the development of state and regional associations in the social science field; by encouraging research; by studying the relation of the political scientist to his job, seeking to enlarge the scope of his usefulness (particularly in the public service), and serving as a medium through which young members of the profession might find employment; by stimulating the study of government in the schools; by promoting adult education in citizenship by the use of the radio; by improving the means of publication open to political scientists, especially through the medium of the REVIEW.

To these activities the Committee's funds and the energies of its members have been devoted not without success. The mere tale of the individuals in and out of the profession who have been brought together through committee meetings and conferences is impressive. During the past year alone, more than 20 such meetings and conferences have been held, with attendance of from two to more than 100. This does not include the regional or state political science associations to which speakers of national reputation were sent, or numerous meetings of other organizations at which the Committee was represented by its general chairman. There can be no doubt that the Committee on Policy, through its grant from the Carnegie Corporation, has greatly increased the mobility of the profession.

The conferences with politicians promoted by the Sub-Committee on Political Education under the chairmanship of President Dodds of

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Princeton—23 in all, nine this year—have proved an unqualified success. President Dodds says in his sub-committee report that he feels that "no experiment with which he has ever been connected has turned out more successfully than this one." These conferences have cost on the average less than $400 apiece, not counting committee overhead; and since the first year, when plans were being formulated and the novel idea of conferences without publicity was being sold, that overhead has been less than $60 a month. In my opinion, no more profitable investment has ever been made by any foundation than that in the promotion of these conferences. At Ann Arbor, for example, on the third and fourth of November last, the governor and the nine members of the Legislative Council charged with the preparation of measures for the coming special session of the legislature sat down and frankly discussed the problem of rural local government reform with a group of college professors and other professional students of the question. As the conference proceeded, the bars of reticence were more and more lifted. Each group acquired an invaluable insight into the motives, ideals, and capacities of the other which could have been had in no other way. This type of conference has proved so successful that it is now being freely copied by others—and there is no higher praise than imitation.

The work of the section of the Sub-Committee on Political Education devoted to the encouragement and improvement of government teaching in the schools has likewise been largely carried on by the conference method. This year a regional conference of political scientists, civics teachers, and educational administrators of the states of Louisiana, Mississippi, Arkansas, and Alabama was held at Baton Rouge with the coöperation of the University of Louisiana and led by Dean C. W. Pipkin. Two conferences a year apart have been held under the leadership of Professor William E. Mosher of Syracuse University which have brought the political scientists and educational leaders of New York State appreciably closer together. The same experience has been had with conferences in Ohio under the direction of Professor B. A. Arneson. It is the purpose of the citizenship training section of the Sub-Committee on Political Education to have a "contact man" in every state—a political scientist definitely interested in civics teaching in the schools who will act as our ambassador at the court of the state department of education. A group of the "contact men" from several states (Ohio, Pennsylvania, Indiana, New Jersey, Michigan, West Virginia, Kansas, Missouri, and Kentucky) met at Columbus, Ohio, early in December to consider aims, purposes, and procedures for extending citizenship training in their respective states. The citizenship training section also has made some progress toward the appointment of a specialist in civic education in the federal Bureau of Education.

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The Sub-Committee on Research has prepared *A Students' Guide to Materials on American Government* which will be ready for the press early in 1934. The process of determining the scope of this work and of gathering and selecting the material for it has been an arduous one, but with the valuable assistance of Miss Laverne Burchfield it is now approaching a conclusion. A questionnaire to heads of departments of political science in numerous colleges and universities showed a considerable demand for the work, and it will largely pay for itself out of sales the first year. The Committee has also considered numerous projects for the promotion of research without arriving definitely at any program which it can recommend—an indication of the immensity of its task. A committee, however, which even occasionally brings together men like Merriam, Corwin, Hall, and Beard to discuss political science research is a species of insurance that when there are constructive ideas on this subject we will have them.

The Sub-Committee on Personnel has done three things: (1) Provided the Association with a placement service, now administered by the secretary-treasurer, which has been very useful in connecting young men with positions in the public service, now that college positions are so seldom available. Dr. King reports that all but three of the men listed have received jobs. (2) Enabled Professor Anderson to prepare a report on professional opportunities in political science in the United States with reference especially to colleges and universities. This report is now ready for circulation among the members of the Association for comment and discussion. (3) Planned a project for a research study of training for the public service and supported the project for an inquiry into public service personnel by the commission established by and through the Social Science Research Council of which Dr. Luther Gulick is the director of research. The Sub-Committee on Personnel, consisting of Professors Gaus, Anderson, and Gulick, will represent the Political Science Association at the hearings of the commission, and will be prepared to lead in promoting the adoption of any plans which may thus be produced.

The Sub-Committee on Publications, of which Professor Shambaugh has been chairman, in its first year did an important service in canvassing the need of subsidized series of monographs, foreign documents, and the classics of political science and in arriving at a negative conclusion with regard to all of them. It has since devoted itself chiefly to supporting the REVIEW. It recommended that the journal be made a bi-monthly instead of a quarterly and secured from the Committee on Policy the sum of $600 a year toward defraying the extra expense involved. It has continued to plan for the maintenance of the REVIEW at its present size and quality in the midst of the depression. During the coming year, the Sub-Committee will further study the REVIEW with regard to its improvement, and will consider the problems involved in the publication of the radio broadcasts

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of the You and Your Government series. It has recently undertaken to aid state and regional associations in the publication of their proceedings.

It is the belief of the general chairman that one of the most useful activities of the Committee on Policy is the encouragement of state and regional associations, especially in remote parts of the country from which very few political scientists can hope to come to the annual meetings of the Association. These associations bring together large numbers of people who otherwise would never attend a general meeting of the members of their profession. Assistance is being given them in two ways. First, by paying the expenses of leading members of this Association who are urged to participate in the programs of the local associations. Professors Corwin, Garner, and Reed have each attended a recent session of the Southern Political Science Association at Atlanta, and representatives of the Association have appeared on several other programs. Second, by assisting when necessary in the publication of proceedings. This will make generally available some very good papers, but, more than that, the knowledge that papers will be printed will encourage men to accept program assignments and to do more thorough work in preparation. This, in turn, will have an effect on the interest which the political scientists of the region will take in their association. It is also manifest that proper attention to state and regional associations stimulates interest in the American Political Science Association. At the recent meeting in Philadelphia, 15 members were present from Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Kentucky, and Tennessee, the states involved in the Southern Political Science Association —a much larger number than at any previous annual meeting.

The general chairman has continued to take special interest in the You and Your Government series of radio programs officially put on the air by the Committee on Civic Education by Radio, which primarily represents this Association. Since my last report, three series have been put on: one of 24 broadcasts on "Legislatures and Legislative Problems," from January to June, 1933; one of 15 broadcasts on "Constructive Economy in State and Local Government," from June to October, 1933; and one of 19 broadcasts on "The Crisis in Municipal Finance," from October, 1933, to February, 1934. The broadcasts of the first of these series were reprinted by the University of Chicago Press and are obtainable from it either singly or in bound form. The summer and the current series have been reprinted by the National Municipal League, and may be purchased from that organization at 309 East 34th Street, New York City.

The chief problem remains that of finding money for promotion of the program. In other ways the work of the general chairman has been very much lightened by the able assistance of Miss Doris Darmstadter, who has more than duplicated for the radio series the good work she has done,

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and is still doing, for the Sub-Committee on Political Education. Most of the details with regard to the programs except the selection of subjects and speakers are now the work of Miss Darmstadter. But the task of finding money outside the Committeee on Policy grant has fallen on your general chairman. Mr. Tyson and the National Advisory Council on Radio in Education have supplied office space, stenographic assistance, and paid postage, telegraph, and telephone bills. The remainder of the necessary money was during the summer and fall of 1933 provided by the Committee on Citizens' Councils for Constructive Economy of the National Municipal League, which has the same chairman as the Committee on Policy. He found it possible to raise money directly for a radio program to be sponsored by the Citizens' Councils group. The price of their support for the radio program has been that it should relate to the subject of local government, and more particularly local government finance. These are subjects of the most intense popular interest at this time, but it must be admitted that an arrangement of this kind would in the long run unduly narrow the choice of subjects for broadcasting; and an attempt, so far unsuccessful, has been made to induce other groups to assume the sponsorship of a series or portions of a series. What financial arrangements will be made for the spring program, beginning February 14, is not altogether decided. An application is pending with one of the foundations from which something may eventuate. It is pretty clear that no financial help beyond that now given can be expected from or through the National Advisory Council on Radio in Education.

Satisfactory financing of the radio programs would require about $10,000 a year. Another $15,000 a year should be provided to secure the proper educational follow up and testing of results, so that the value of radio in civic education might finally be established or refuted beyond possibility of doubt. These needs seem simple in view of the importance of the matter, but these are days in which money is hard to get.

While the problem of financing is vexatious and the continuance of the series is always in jeopardy, it is possible to speak with confidence concerning the success of the programs as a means of reaching the public with the truth on subjects of political interest. In the current series on The Crisis in Municipal Finance, nearly 500 schools and individuals, civic organizations, etc., have coöperated in distributing 125,000 folders advertising the series. In fact, the number of folders which can be distributed by this means is limited only by the small amount of money available for printing them. In addition, numerous organizations announce the programs in their own publications. Reprints of the summer series have been distributed to the number of 5,488, and of the current series (which will be completed February 6) to the number of 5,107. Requests are received frequently to reprint in periodicals and occasionally

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to rebroadcast individual programs. These are but indications of widespread interest in what we are doing. The number of our listeners is not capable of a definite statistical expression. All estimates of the sort are mere guesses. But the volume and quality of our "fan" mail proves that our audience is well distributed and influential.

An analysis of the mail received as a result of the series on The Crisis in Municipal Finance up to December 15, when the series was approximately half over, showed that letters and orders for reprints had been received from 45 states, the District of Columbia, Hawaii, six provinces in Canada, England, and Wales. Among the letters received were 62 from city officials, 28 from banks, investment houses, and insurance companies, and 46 from school authorities.

Last fall, two prizes of $100 each, one for high school and one for college and university students, were offered by Frank Morse, of Lehman Bros., and Morris Tremaine, comptroller of the state of New York, for essays on the subject "My Town, What Can I Do to Improve its Credit?" A total of 247 essays were submitted, and the judges—Lawson Purdy, Richard Willing, and Miss Katherine Ludington—were surprised and delighted by their quality, especially from the younger contestants. Prizes were awarded to Leon S. Smelo of the University of Pennsylvania Medical School, and Rose E. Smith of the Newtown High School, New York City.

Sometimes one letter accounts for a host of listeners, as does the following from the president of the Georgia League of Women Voters, where the local leagues unite in listening to the You and Your Government Programs as part of their regular program.

October 23, 1933

Mr. Lambdin Kay, Director,
WSB
Atlanta Journal,
Atlanta, Georgia.

Dear Mr. Kay:

I wish to thank you for the entire Georgia League of Women Voters, and this includes all local leagues—for carrying the broadcasts "You and Your Government" every Tuesday afternoon at 5:15, Atlanta time, 6:15 for other parts of the state. So many of us wish to listen in to these splendid discussions of timely subjects that we greatly appreciate your kindness. Last summer, when base-ball games interfered with the broadcasts, we had to get reprints to study, which was not half as interesting as being able to listen with others.

Cordially yours,
(Signed) Estelle Stevenson,
President

This practice is common among Leagues of Women Voters throughout the country, as well as many other civic and educational organizations.

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Here is another type of letter, from Maury Maverick (of the famous Texas family whose cattle holdings were so vast that its name became a noun in common speech to describe a stray steer), tax collector of Bexar county, Texas.

October 4, 1933

National Municipal League,
309 E. 34th St.,
New York City, N.Y.

Gentlemen:

I enclose herewith my check for $2.50 to cover the cost of copies of the lectures on government to be given over Station WOAI, San Antonio. I am eager to get a copy of City Manager Dykstra's talk, which was given last evening over this same station, and if it will expedite matters please forward this address at once and the balance as soon as you can.

Very truly yours,
(Signed) Maury Maverick

Another letter came from a business man in Bay City, Michigan.

October 19, 1933

National Municipal League,
309 E. 34th St.,
New York City, N.Y.

Gentlemen:

Under date of Oct. 4, 1933, I sent you my check for $2.50 to cover copies of your 19 radio broadcasts and any other literature you may have on this subject. I am exceedingly anxious to receive this literature. As I explained in my letter, our city council decided on a special election to submit the question of bonding the city for $595,000.00.

Yours very truly,
(Signed) Harry J. Tierney

Here are two more letters from such widely separated points as Arlington county, Virginia, and Winnipeg, Canada:

December 9, 1933

National Municipal League,
309 East 34th Street,
New York City, New York.

Gentlemen:

Please find inclosed $.15, for which send me copy of tax interview over radio on evening of December 5. I am reading these tax addresses with considerable interest, and feel sure that you are doing an educational work that is highly beneficial to our states and nation.

Very truly yours,
(Signed) Harry K. Green

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October 24, 1933

Mr. Howard P. Jones, Secretary,
National Municipal League,
309 East 34 Street,
New York City, N. Y.
U. S. A.

Dear Mr. Jones:

Many thanks for your letter of the 14th instant received together with programme of talks given over the NBC-WJZ Nation-Wide Broadcasting Hook-up. I am keeping the programme for reference and will listen in on the dates and times mentioned therein. I am enclosing fifteen cents and would appreciate receiving copy of talk given on October 3rd by Mr. C. A. Dykstra, city manager, Cincinnati, when he dealt with the subject, "The Financial Plight of the Cities." This talk came over the air excellently in Winnipeg on that occasion. Our managing-secretary, Mr. E. C. Gilliat, and our past president, happened to tune in at that time and were most impressed with this excellent message on civic affairs. I am keeping your pamphlets for reference, and will be glad to send for any of the reports mentioned therein should an occasion rise when they would be of use to us in our work.

Yours very truly,
Winnipeg Board of Trade,
J. Hercus
Assistant Secretary

These letters have been offered as a fair sample of what comes to us by letter or by word of mouth from every part of English-speaking North America. There can be no doubt that the You and Your Government Program has earned its place on the air. It gives to the members of our Association and other leaders of thought on government an opportunity to address an audience infinitely wider than all but an occasional Beard can reach in any other way—and to reach it effectively. By these broadcasts the name of the American Political Science Association has received publicity many times more widespread than it could have hoped for from any other medium. The public has become acquainted with some of the leading figures in our professional life. Students have been stimulated by the opening of the door of wider usefulness for the political scientist.

What has the Committee on Policy done for the Political Science Association through its varied program of activities? In a word, it has made it vital. There is more interest in the Association than at any other time in its history. In a period when every learned society has been losing members by the hundreds, the membership of the Political Science Association has suffered almost no loss—six members in 1932 and 55 in 1933. Is it not because the Political Science Association better satisfies its membership by the quality of its REVIEW, the vigor of its activities, the reality of its contact with the world about it? And to all these ends the Committee on Policy has contributed effectively.

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In terminating my three years' tour of duty as chairman, I want to express my gratitude to my fellow members of the Committee and to the Association at large, not only for the loyal way in which they have followed such leadership as I have been able to give, but also in many instances for supplying the leadership themselves. We have been engaged together in a great coöperative undertaking, and the laurels, if there be any, belong to all.

FINANCIAL STATEMENT, 1933

Balance Sheet

Balance in Check Book as reported by the Secretary-Treasurer, December 15, 1932	$2,567.69	
Cash revolving funds	450.00	
Deposits made in 1933, credited to 1932 balances	218.53	
	$3,236.22	
Minus bills incurred in 1932, paid in 1933	1,052.90	
Final Balance 1932		$ 2,183.32
Receipts		
Carnegie Corporation grant for 1933		15,000.00
Interest on bank deposits		48.85
Total Receipts		$17,232.17
Expenditures		
Office	$5,536.50	
Travel	6,140.54	
Total Expenditures		11,677.04
Balance, December 15, 1933		$ 5,555.13

Reconciliation

Balances in cash revolving funds		
General Chairman	$ 300.00	
Sub-Committee on Political Education	50.00	
Sub-Committee on Personnel	50.00	
Balance in Check Book as reported by the Secretary-Treasurer, December 15, 1933	5,155.13	$ 5,555.13

Appropriation Statement

	Appropriation		*Expenditures*	*Balance*
General Committee Fund				
Unappropriated balance	$2,733.32	Office	$ 110.86	
Interest on bank deposits	48.85	Travel	1,102.58	
	$2,782.17		$1,213.44	$ 1,568.73
General Chairman	$1,200.00	Office	$ 693.45	
		Travel	600.52	
			$1,293.97	(−)$93.97

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Radio Activity	$1,250.00		$1,250.00	
Sub-Committee on Research	$3,400.00	Office	$1,476.09	
		Travel	393.80	
			$1,869.89	$ 1,530.11
Sub-Committee on Political Education, Conferences	$4,500.00	Office	$ 652.91	
		Travel	3,074.16	
			$3,727.07	$ 772.93
Sub-Committee on Political Education, Citizenship Training	$1,400.00	Office	$ 67.83	
		Travel	908.43	
			$976.26	$ 423.74
Sub-Committee on Publications	$1,000.00	Office (Review fund)	$ 500.00	
		Office (Grant in aid)	100.00	
			$ 600.00	$ 400.00
Sub-Committee on Personnel	$1,700.00	Office	$ 685.36	
		Travel	61.05	
			$ 746.41	$ 953.59
Aggregate Balance				$ 5,555.13

Budget for 1934

Balance 1933		$ 5,555.13
Reserve for Publication of "Guide," etc.	$1,200.00	
Reserve for unpaid bills	855.13	
Total Reserve		2,055.13
Unencumbered balance		$ 3,500.00
Carnegie Grant		15,000.00
Available for appropriation		$18,500.00
General Chairman	$1,500.00	
Sub-Committee on Research	3,500.00	
Sub-Committee on Political Education		
Conferences	5,500.00	
Civics Study	2,250.00	
Sub-Committee on Publications	1,100.00	
Sub-Committee on Personnel	2,300.00	
Total		$16,150.00
General Fund Balance		$ 2,350.00

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BOOK REVIEWS AND NOTICES

The Intelligent Man's Review of Europe Today. By G. D. H. and Margaret Cole. (New York: Alfred A. Knopf. 1933. Pp. xvii, 624.)

Collaborating on this occasion with his wife, the indefatigable Mr. Cole follows his *A Guide Through World Chaos* (see this Review, February, 1933, p. 118) with a volume apparently intended partly as a supplement to, partly as a more popular interpretation of, that earlier work. Considering the scope of the enterprise and the variety and complexity of the subject-matter, the authors have achieved a well proportioned and reasonably well articulated survey of the economic, political, and diplomatic aspects of the present European scene. As such a general survey, nothing recently published is likely seriously to challenge its supremacy.

It must be added that a mere survey is not all that the authors intend. They propose to instruct as well as to inform. Their pedagogical purpose is especially evident in the section devoted to post-war economics, probably the strongest part of the book. After reviewing each of Europe's major economic woes, the authors present their remedies at some length. To Mr. Cole's readers, these remedies are already familiar. Many of them may still seem like economic heresy, even to an American; but only an economist who thought more of his orthodoxy than of his wisdom would be able to reject them altogether.

The pages devoted more directly to contemporary European politics are less didactic in character. In them the pedagogical purpose becomes noticeable only when the authors are describing the tinkering which the British parliamentary system must undergo in order to be transformed into a suitable instrument for ushering socialism into Britain. These pages contribute an unusually penetrating analysis of the reasons for the failure of parliamentarism in some European states and of the forces making for or against the stability of this system where it still persists. They also draw a clear and detailed contrast between the present Italian political dispensation and its more recent German equivalent on the one hand and the Russian experiment on the other. A history of the European peace movement since 1920 and the causes of its failure follows, and the book concludes with a summary of proposals for reconstruction, socialism's offering being measured against that of both conservative and reformist capitalism.

Although the generous statistical apparatus which has been supplied must evoke admiration for the authors' industry and factual zeal, its effect in a book such as this is apparently intended to be is sometimes not the happiest. The profusion of digits in the text of some of the pages, and the tables and charts which appear at such frequent intervals, sug-

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gest more than a passing resemblance to a government report or to a statistical year-book. Protest is also likely to be heard from more than one reader against occasional over-doses of doctrinairism, especially in the treatment of the more purely political subjects. Such criticisms, however, cannot detract seriously from the book's solid merit. Whatever faults it may have, it must still be acknowledged as the most comprehensive diagnosis of contemporary Europe's ills which has yet been published, and the source of some of the most challenging ideas on European social and political reconstruction which the post-war period has produced. It is quite possible that some intelligent men will refuse to concur in part of this diagnosis and that other intelligent men, a larger number probably, will refuse to entertain many of the prescriptions for the patient; but it is scarcely conceivable that any intelligent man who wishes to be informed about post-war problems and tendencies will neglect to read the book from cover to cover.

ARNOLD J. ZURCHER.

New York University.

The Experiment with Democracy in Central Europe. By ARNOLD JOHN ZURCHER. (New York: Oxford University Press, 1933. Pp. ix, 328.)

Ever since the collapse of the old order in Europe efforts have been made to depict the new—either as blueprinted by constitution-makers or as etched by the acid test of experience. Seldom have both approaches been kept in mind. Again, the political analysts have wavered between a strictly historical approach—fearing to dissever too sharply the new constitutional organisms from the tissue and texture of events—and a formal topical treatment freeing the institutional innovations from their immediate political contexts and admitting of objective skeletal comparison. Professor Zurcher has attempted the *media sententia*, navigating the tortuous course between the Scylla of excessive historicity and the Charybdis of inert comparative osteology. The result is a trenchant volume which combines the topical with the historical method while keeping firmly rooted to reality. There is ever present the succinct appraisal: "Here is how it has worked out in practice."

Beginning with an epitome of the historical process which brought into being the new commonwealths, Zurcher observes the final crystallization of the forces of democracy, nationalism, and socialism in the constitutional provisions and the governmental mechanisms of the new states. For the institutional forms given to these forces he holds the jurists—the innovating architects—largely responsible, ascribing to them the major weaknesses of the new constitutional systems because of "their failure to provide institutions and governmental forms which fit the prejudices and traditions of the people." Their solutions, he finds, "have proved a

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positive menace to stability" (p. 21). The author's discussion of continental federalism and of the new mechanisms for constitutional control, including both judicial and executive review of legislative acts, is illuminating and comprehensive. It is certain to be appreciated by American scholars as a distinct contribution. Three meaty chapters studded with statistics and tabular data are devoted to the electorate, proportional representation, and the initiative, referendum, and recall. The latter, it is now apparent, have failed, owing to the structure of parties and adverse administrative pressure, to develop as important political institutions.

The bulk of the work treats of the basic problems of executive and legislative power and their interrelationship. "The Titular Executive" is handled excellently, the author revealing a thorough intimacy with the intricate politics surrounding chief magistrates. There is an analytical treatment of "Parliament," packed with facts; an encyclopedic account bristling with names of party leaders, devoted to the relations of cabinet and parliament; and a vital portrayal of the work of second chambers. Two balanced, thought-provoking chapters appraise parliamentary control of foreign policy and breathe into "The Rights of the Individual" the social philosophy of the new charters.

The volume concludes with an evaluation of minority guarantees and functional representation—burning questions affecting the social peace of most of the new commonwealths. On both of these subjects Professor Zurcher has done yeoman work in decomplicating and popularizing technically difficult matters. The final summary, while on the whole well-rounded, treats somewhat cavalierly the conditions in Lithuania, Jugoslavia, and Poland. To portray stern Pilsudskist Poland as in any way in "national anarchy which has ensued as a consequence of . . . disruptive forces" (p. 273) overtaxes the credulity of the reader.

The book has an excellent bibliography referring selectively to the best and most authoritative literature appearing in French, German, and English since 1920. There is a really workable analytical cross-reference index markedly enhancing the utility of the volume to both student and layman. Five outline maps, four of which are so primitive and inadequate as to be of scant value, mar the volume. It would gain by their improvement—or omission.

MALBONE W. GRAHAM.

University of California at Los Angeles.

Germany: Twilight or Dawn? ANONYMOUS. (New York: McGraw-Hill Book Company. 1933. Pp. 226.)

My Battle. BY ADOLPH HITLER. Abridged and translated by E. T. S.

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Dugdale. (Boston and New York: Houghton Mifflin Company. 1933. Pp. x, 297.)

That the anonymous author of the first-named volume is a German scarcely needed to be mentioned by the American publisher (the book is published also in London under the title *Why Nazi?*), for no one but a German could so graphically portray the emotions and sentiments which caused Germany to rise in revolt "not merely against the humiliation caused by the treaty of Versailles and its interpretation during the last fourteen years, but in revolt also against the despair, resignation, and inertia with which the Western world is watching its civilization crumble." Written in an admirable style, we have here one of the best brief interpretations of present-day Germany that has appeared in English since the war. The purpose of the writer is "not to accuse, or to defend, but to explain;" and that purpose has been clearly achieved.

While the crucial events described all center about the first six months of Hitler's chancellorship (January 30, 1933, to August, when the book was completed), the material forming the background includes an account of such topics as the rise and fall of the Republic, the forerunners of the Revolution, the rise of National Socialism, the tragedy of the Jews, the youth movement, and the new constitution—that is, the changes thus far made in the Weimar Constitution. Among the permanent and significant changes wrought by the Hitler rule, the author places national unity, the abolition of the aristocratic class system and the parliamentary form of democracy. But these changes do not exclude the possibility of the development of a new state based upon a democratic idea. The test will come when Hitler attempts to carry out such projects as the redistribution of the land of the East Prussian Junkers, an attempt which was one of the causes of Bruening's fall. Any prediction concerning the future of present-day Germany faces the difficulty of differentiating between those who follow Hitler because he denounces the inequality of the international status and those who believe in the ideas and aims of the National Socialist party.

As to what those aims are, no reader of *My Battle* need be in doubt; for if there is one thing about Hitler's book concerning which there can be no reasonable difference of opinion, it is that the author expresses himself on all subjects which he discusses with a conviction so direct and positive that his meaning is clear. It should be noted that this volume contains only a little more than one-third of the original *Mein Kampf*. But I cannot agree with those who claim that the American edition soft-pedals the original. The very title rather suggests the opposite; for *Kampf* would better have been translated "struggle" instead of "battle," which gives it a military concept; and Hitler is not here concerned primarily with making the nation a military power, but with giving an account

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of the rise of the National Socialist movement, his philosophy of state, and his theory of government. Within the limits selected, the translator has given a very fair picture of Hitler in all of his ranges; he has included his worst characteristics, among them his inordinate intolerance of the Jews, and also his most enlightened comments on the theory of the state and the nature of government, such as "human rights are above state rights" and "the best form of state is that which, with natural sureness of hand, raises the best brains of the community to a position of leadership and predominant influence." Hitler's impatience with the leaders of the Republic extends back to the old régime, for he scores "the futile stutterings of Bethmann-Hollweg" and "the silly ignorance of the world shown by our German intelligentsia who believe that a writer is bound to be an orator's superior in intellect."

Taken together, these two volumes go far toward explaining Germany of today. Those, however, who read German will find a better picture of Hitler in the original *Mein Kampf* than in the translation.

KARL F. GEISER.

Oberlin College.

The Italian Corporative State. By FAUSTO PITIGLIANI. (London. P. S. King and Son. 1933. Pp. xxv, 293.)

Rome once exported ideas on law and organization. The process seems to continue. As Fascism ten years ago appeared on the scene, so "corporativism" more recently, each a new literary label for a new Italian social phenomenon. Much curiosity has been aroused abroad because of the grandiosity of the scheme and its jubilant promise of solution for problems which the non-Italian world finds agonizing, in particular the problem of peace or war between capital and labor.

The book under review has value, but solely as an optimistic, uncritical exposition of the corporative scheme, which the Master of Facism (usually referred to as "the legislator") gradually adopts from the plans of his lieutenants and adapts to his supreme idea of absolute state control. Capital and Enterprise, as well as Labor, must settle themselves as best they may on Uneasy Street, as they observe "the fact that, with the decline of confidence in the theory of economic liberty, the state creates its own instruments for controlling national economic life as a whole" (p. 108).

With a wealth of detail, the various categories of producers are described, in their occupational associations, whether trade unions of workers or syndicates of employers, or, in each field, their federal associations, local, provincial, and national. But as between the two classes corporativism "neither abrogates nor denies the antagonism: it seeks . . . to harmonize the inevitable causes of contrasting views on a basis of equality and in the light of common interests" (p. ix). As opposed to socialism

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or syndicalism, corporativism forbids the class struggle, compels collaboration.

The elaborate apparatus for the making of collective labor contracts is described; also the system of conciliation and compulsory adjudication in labor courts. The tendency is said to be for "the judge to favor the weaker party in a dispute" (p. 73). There is also description of the representative National Council of Corporations. This body, with Mussolini at its head controlling operations, has a system of sections, each of which is designed to function as the compulsive organ of class collaboration in one of the half-dozen fields of production, such as industry, commerce, etc. But great difficulty has been experienced in designing and executing the capstone of the social structure. "Only a single corporation, viz., that of the state, has so far been established" (p. 110).

Part II provides the reader with a great body of information, historical and statistical, upon the occupational associations in practice. There are the Fascist national confederations, i.e., employers' and employees' federal associations in the six fields of industry, agriculture, commerce, sea and air transport, land communications, credit and insurance, and, for the thirteenth, the one National Confederation of Fascist Syndicates of Professional Men and Artists. The history of each is described, in its approach, through Socialist, Catholic, and other auspices, to the present exclusive Fascist auspices. Thus the bodies lose their spontaneous, voluntary character, and become organs for the work of an all-inclusive state. The work of social assistance is outlined, particularly the *Dopolavoro*, the national organization for developing labor in its better use of leisure for recreation and advancement. There are also notes on the methods (by wage check-off) of deriving funds for the support of the whole system.

HENRY R. SPENCER.

Ohio State University.

Parliament and the Army: 1642-1904. By LIEUT.-COLONEL J. S. OMOND. (Cambridge (Eng.): Cambridge University Press. 1933. Pp. x, 187.)

This excellent little book, the only thing in its field, surveys historically the problem of parliamentary control of the English army. Encouraged by the late Graham Wallas, and written by a lieutenant-colonel, it combines the serious professional interest of the senior army officer with the independent-mindedness of the political scientist. It is a study in government, not military history. Though brief, it omits no development of importance within its limits of time. One may wish, however, that Colonel Omond will sometime expand his sketchy but suggestive epilogue dealing with the situation after 1914.

The first period covered—that roughly up to the peace of Utrecht—is one in which the characteristic English attitude toward the army be-

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comes habitual. Because standing armies had always been used for political purposes, there is a popular suspicion of them, which Omond does not exaggerate. At the same time, armed forces are occasionally necessary, and with the development of parliamentary control over finance and other matters formerly in the king's hands, Parliament begins to take steps to control the army.

The second period, which covers most of the eighteenth century, is one in which England neither fought at home nor feared war. National suspicion of the army continued, however, and so did the need for an army. Parliament controlled the purse and the numbers of the soldiers, and proved a niggardly master.

The third period is one in which the army is accepted as inevitable, and in which military administration begins to be consciously organized. From 1795 there is both a commander-in-chief, responsible to the crown, and some sort of a civilian official responsible to Parliament, and this duality is tolerated. After the Crimean War and the beginning of general administrative reforms in the government of England in the 1860's, a fourth period begins with an attempt to create an efficient army and to coördinate its administration. The Cardwell reforms and the infinite series of commissions and committees ably summarized by Colonel Omond all produced their gradual result, and the half-century after 1870 saw England's army administration modernized and made efficient. The present-day English army is based on the legislation and administrative acts of 1870.

At the same time, the underlying problem of control came to the surface, since any administrative organization involved centralization and parliamentary control; as yet the fact that the army was still a preserve of the crown was a tenet held doggedly both by the Duke of Cambridge (one of the most successful obstructionists in English history) and the wearer of the crown herself. Even Cambridge's enforced resignation in 1895 did not settle it. The year 1904 is the point after which all control is centered (in theory) in a responsible minister.

The book tells the interesting story of the coming of almost complete parliamentary control to a department of the government which was long partially exempt from it. Colonel Omond's Epilogue tactfully omits any mention of the Curragh. For the problem in its modern form, one need, however, go only to Chapter X of Graham Wallas's *Our Social Heritage*.

E. P. CHASE.
Lafayette College.

John Hay; From Poetry to Politics. By TYLER DENNETT. (New York: Dodd, Mead and Company. 1933. Pp. xi, 476.)

This is a superb biography of a many-sided American who lived during

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the "gilded age" of our history—one who, in his own words, would have preferred "to lie in the orchard and eat the sunny side of peaches" but who, withal, had a "dazzling career" as a poet, biographer, ambassador, and Secretary of State. Born on the western frontier in a southern Indiana village of a "migratory" family from Kentucky, he was taken in early life to the Illinois town of Warsaw on a bluff of the Mississippi River. Through the generosity of an uncle who lived at Springfield, he was able to attend Brown University, from which in due course he was graduated. Returning to Warsaw with nothing to do, he shortly afterwards moved to Springfield where he began the study of law in the office of his uncle, in a room adjoining the office of Abraham Lincoln, who two years later took him to Washington as one of his secretaries. Mr. Dennett remarks that young Hay possessed a "sophistication" of which the Lincoln party, when it set out for Washington, was "in conspicuous need."

After a brief diplomatic experience in minor posts, Hay became an editorial writer. His literary fame was established quickly, and by the end of 1871 "his name was probably known to as many people in the United States and abroad as in 1897 when he was appointed ambassador to the Court of St. James." His transfer from London, which he loved, to Washington, which he disliked, as Secretary of State in 1899 was to him an unwelcome promotion. On the eve of entering upon his duties, he wrote his wife that he almost dreaded to have "her come and plunge into this life of dreary drudgery; it's going to be vile—the whole business; the men are bad enough—their wives are worse; all the fun of my life ended on the platform at Euston." "The real duties of the Secretary of State," he wrote cynically to Henry Adams, "seem to be three: to fight claims upon us by other states; to press more or less fraudulent claims of our citizens upon other countries; and to find offices for the friends of senators when there are none." But it was the attitude of the "unspeakable Senate" more than anything else that irritated him, aged him, and broke him up. He got along better with McKinley than he did with Roosevelt, because the former interfered with him less, was more courteous, and apparently had more confidence in his ability and judgment.

In some letters to Senator Lodge written after Hay's death, Roosevelt expressed the opinion that Hay was not a great secretary of state because he was timid and would not fight for his opinions, that he had a too "ease-loving nature" and was too much inclined to associate only with men of refined and cultivated tastes and to live apart from the world of affairs. Mr. Dennett, however, thinks that what Roosevelt mistook for weakness was in fact "a kind of strength which Roosevelt could not understand." Nevertheless, he considers that it would have been better for Hay's reputation if he had resigned as early as 1903 before death took him away. His constructive work had already been finished, his name was not associated

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with any new measures which added to his fame, he was bereaved by the tragic death of his son, and his health was broken. But he held on through a feeling of loyalty to his chief, although manifestly their relations were no longer happy.

Mr. Dennett's evaluation of Hay as a man, a scholar, and a statesman, while in no sense that of a hero worshipper, is at the same time that of a biographer who evidently, and justly so, it is believed, found much in his subject to admire. Hay was a man of versatility. He was one of those men who would have made at least a moderate success of almost anything. At the age of thirty-one he was a successful diplomat; three years later he had achieved a literary reputation which gave promise that he might step into the place of Irving, Holmes, or Lowell; and he finished his career at sixty-six "the most popular Secretary of State since the Civil War, and, by popular vote, one of the greatest statesmen of the Western world and of the modern age." Indolent by nature, he worked hard and "long after he had a valid reason to quit. An individualist, a better man than his party, he chose to cling to the latter, at the cost of such discomfort as only sensitive souls can appraise. A vagrant in life, he bowed before a sense of duty and yielded to its discipline. Evading most of the rough spots, nevertheless he fell into some—and marched through like a man. In a rather brutal, masterful age, he achieved a better part: he overcame himself."

Yet he had certain weaknesses without which he might have achieved still greater success as a statesmen. He lacked dogged persistance; he was not a fighter for his convictions, even when he had positive convictions, which was not always the case; he was poor at making gestures; he was not by nature a politician, and during most of his public career his body was wracked by pain and suffering.

Of. Mr. Dennett's biography it may be said that it has been admirably done and in accordance with the best standards of historical and biographical writing. He has made use of all available materials, including Hay's journals, letters, and diaries, Unfortunately, Hay destroyed a large mass of his letters, having determined while he was engaged on the Life of Lincoln that his own biography should be written only from official documents. Mr. Dennett announces that he has in preparation for publication a new selection of Hay's letters and diaries.

JAMES W. GARNER.

University of Illinois.

The Position of Foreign States before National Courts, Chiefly in Continental Europe. BY ELEANOR WYLLYS ALLEN. (New York: The Macmillan Company. 1933. Pp. xxii, 302.)

Although the position of foreign states before national courts has been,

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as Dr. Allen states, "a subject of contemplated international regulation for more than fifty years" (p. ix), it remained for her to present the first comprehensive study of the subject based, as such a study should be, on the decisions of the courts themselves. It is a relief to read such a book, not only because it contains a perfect mine of information on the subject, but also because in giving this information the author avoids the error committed by certain alleged authorities in discussing the issue of the immunity of states before legal tribunals, namely, one of confusion between the law as interpreted by these tribunals and the law as the alleged authorities in question believe it should be interpreted. In avoiding this error, Dr. Allen may have written a book which will not appeal to those internationalists who are ever seeking the ideal. The practicing lawyer, however, whose work requires him to face realities in the domain of private international law, will probably bless her for writing it.

The book is divided into two main parts: Part I, General Analysis, a factual analysis of the study, annotated with relevant decisions, and Part II, Analysis by Countries, a detailed analysis of the decisions themselves. In the first part, Dr. Allen presents the issues which have been raised by the courts. These issues are grouped under appropriate headings, and concise statements are given which show the rulings of the courts on the questions involved. In the second part, the different decisions referred to in Part I are analyzed with a precision of expression which shows the author to be a legal analyst of rare ability. At the same time, the background and historic development of the practice of the courts in such countries as Germany, Holland, France, Belgium, and Italy is not overlooked.

The first two chapters of Part I attack the main problem which, as Dr. Allen points out, "starts with the general proposition" that foreign states before national courts "are immune from suit" (p. 3). The author shows, however, that this proposition "involves an investigation of the connotations of the term 'state,' " and that after this investigation is concluded the doctrine of immunity, with its qualifications or exceptions, must be analyzed. The results of that analysis are set forth in Chapter II of Part I, with its significant heading, "Inapplicability of Immunity." The following sentence quoted from this chapter will give an idea of the "contrasting decisions" on the subject: "The purchase of shoes for the army, held to be a private act by Italian courts, was held to be the exercise of the highest sovereign function of protecting itself against its enemies in the United States, while in France the courts refused to assume jurisdiction over a similar contract" (p. 42).

In the case of property owned by foreign states, we find a variety of rulings upon such issues as an action directed against the property itself, an attachment of the property as security for a debt, and an execution

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against it upon a judgment rendered against the foreign state (Chapter III, Part I). Case after case is cited in the footnotes in support of the statements made in the text. In this connection it should be emphasized that one of the most valuable features of this admirable study is the citation of cases throughout the book and in the "Table of Cases" (pp. 335-345) in a form that is free from the horrible abbreviations which puzzle even lawyers whose practice requires them to be familiar with the decisions of the courts of European states.

The question of how much immunity should be extended to government-owned vessels, which has provoked quite a few philosophical—but not many legal—dissertations on the subject, is dealt with at length. The treatment is strictly legalistic, as is indicated by the chapter entitled "The Application of Immunity to Government-owned Vessels" (Part II, A. Germany, Chapter III), which contains a review of the decisions of the German courts. The discussion of the well known cases of the "Ice King" and the "West Chatala," two vessels owned by the United States Shipping Board, will be read with interest by admiralty lawyers in the United States. In considering the Dutch doctrine on the government-owned merchant-vessel issue, Dr. Allen devotes an entire chapter to the De Booji Case, which, as she states, "left its mark indelibly on Dutch jurisprudence and acquired fame far beyond the boundaries of Holland" (p. 110 ff.). After considering the development of the Dutch practice under the much criticized Article 13A of the "Alegemeene Bepalingen," the author concludes that the whole course of this practice "indicates that whatever legal writers or even the courts may have contended, the government itself has stood firm in its position that international law forbids the subjection of foreign states to the jurisdiction of national courts and has protected their property from seizure" (p. 147).

This conservative position appears to be somewhat similar to that of France, where "the courts have been scrupulous in applying the general international law doctrine of immunity for foreign states and their property" (p. 184). The Italian courts appear to have been somewhat more liberal, although as Dr. Allen points out, "since the normal number of cases in which jurisdiction is assumed [by the Italian courts] are decided in favor of the defendant state, and regulation on the part of the political branch of the government in the form of treaties still further protects the interests of the states, very few condemnations of foreign states occur, despite the frequency of the discussion of the general issue" (p. 263). It may be added that in her discussion of the French and Italian practice Dr. Allen emphasizes certain exceptions which have been made in cases involving the rights of the Union of Socialist Soviet Republics (pp. 171, 251-256, 262).

At the end of the book, Dr. Allen gives us in two pages, which are

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models of conciseness, her "Conclusions." She states that "a growing number of courts are restricting the immunity [of foreign states] to instances in which the state has acted in its official capacity as a sovereign political entity" (p. 301). The current idea that this distinction is peculiar to Belgium and Italy "must be enlarged to include Switzerland, Egypt, Roumania, Austria, and Greece" (p. 301). She notes that the "swing towards the more radical doctrine of holding states responsible to the courts for their economic activities was given a great impetus by the appearance on the international stage of the Union of Socialist Soviet Republics. Courts that had never before assumed jurisdiction over an unwilling foreign state tore aside the veil and saw beneath the garments of the sovereign a powerful economic competitor of national business firms which should not be allowed to handicap private enterprise by the claim of the sovereign prerogative" (p. 302).

Dr. Allen refers to the much discussed proposal for the negotiation of an international convention which would "be effective in producing uniformity of court action and in reducing the sovereign immunities of foreign states to any degree decided upon," but is too much of a realist not to call attention to the "extraordinary complications that must be faced in the preparation" of such a convention (p. 302). She suggests that as "much of the difficulty in obtaining satisfactory decisions from the courts lies in domestic laws," the difficulty in question "could be obviated by a careful reworking of the rules governing the competence of the courts. In many countries this has already been done, with salutory effect" (p. 302).

CYRIL WYNNE.

State Department,
Washington, D. C.

World Revolution and the U.S.S.R. By MICHAEL T. FLORINSKY. (New York: The Macmillan Company. 1933. Pp. 264.)

Soviet Economic Policy in the East. By VIOLET CONOLLY. (New York: Oxford University Press, 1933. Pp. 168.)

This welcome volume from the skillful hand of the author of *The End of the Russian Empire* is timely proof that even the Bolshevik leopard can change its spots in practical politics, and has, in fact, changed its rôle from disrupter to defender and organizer of the peace of nations. Dr. Florinsky sets forth the thesis that the evolution of the doctrine of world revolution has determined both the domestic and the foreign policy of the Soviet Union. During the first six years, the stage was held by the old Bolshevik idea of permanent revolution—revolution to deepen and move leftward by stages, no compromise with capitalism, and the assump-

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tion that a national revolution cannot be a self-contained unit but merely a link in the international chain. Faced with the overpowering difficulties of the early years, the Bolsheviks turned for relief, perhaps for salvation, to world revolution; in 1919, they created the Comintern to support revolution elsewhere. When the fanfare died down, and backward Russia was the only country remaining under a Communist régime, it was decided that the participation of capitalism in the reconstruction of Russia was imperative in order to attain the ultimate aim of Communism. One might raise the question as to whether the domestic situation determined the attitude toward world revolution, or the other way around. In any case, the ideological war in 1924-27 between Trotsky (permanent revolution) and Stalin (socialism in a single country) brought about the great change. The latter's victory was expressed within Russia by industrialization and the Five Year Plan as a way out of the *impasse* created by the failure of world revolution to materialize; in foreign policy, it was soon expressed in Soviet promotion of peaceful coëxistence and coöperation with capitalist countries, of schemes for immediate and total disarmament, of military and economic non-aggression pacts which preclude Soviet intervention in event of counter-revolution on territories of the co-signatories. The new doctrine was fitted into Communist theory by the Sixth Comintern Congress in 1928, which declared the economic progress of the Soviet Union to be a factor in world revolution. Since that date the Comintern has been gradually transformed into an international body concerned chiefly with the defense of the Soviet Union.

In depicting the conversion of the former knights errant of world revolution into prosaic artisans of an industrialized socialist commonwealth, Dr. Florinsky does not minimize the unbridgeable gap between the practical politics of the U.S.S.R. and the teachings of Communism. He makes no prophecies. Rather does he raise the question as to which speaks for the real Russia: Marx, Engels, and Lenin, with their harsh and terrible vocabulary of violent and inevitable world revolution; or the "young workmen and peasants, awkwardly approaching beautiful machines which they have never even dreamed of before, or standing dazzled by the wonders of the future as unfolded by their leaders. Is it the young men and women who see at last a way to escape from the bleak drudgery of the old Russian village and are eager to conquer the world—though not necessarily by the use of arms?"

Dr. Florinsky used Soviet sources almost exclusively, citing titles in both Russian and English. His style is easy, somewhat conversational; his pages are marked by very stimulating passages of under-statement. The volume has a table of contents, a detailed index, and is sprinkled with helpful sub-titles. Appearing at the moment of our resumption of diplomatic relations with Russia, it should be read by all Americans,

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especially those who have maintained over the years that recognition could lead only to disaster.

By analyzing the operation and results to date of the special trading system which the Soviet government has created to deal with contiguous Asiatic countries, Miss Conolly becomes a pioneer in a field of future high potential. Her work, which has been accepted for the diploma of the Graduate Institute of International Studies, Geneva, is devoted to Soviet trade relations with the six areas which are exempt from the rigors of the Foreign Trade Monopoly; a companion study is to follow, on such relations with the rest of Asia, particularly China and Japan.

With a wealth of detail, the author reveals Soviet Russia as the halfway station between the advanced West and the backward East. The Bolsheviks repudiated treaties, debts, and other obligations owed by old Russia to the West, but at the same time forgave tsarist claims and privileges in the East. The distinction is carried over into trade, the scheme of which is to import industrial machinery, and exclude finished products, from the West, and to export manufactured goods and doctrine to the Asiatic neighbors. Since such agrarian countries are not considered competitors, the Bolsheviks early exempted them from the Foreign Trade Monopoly restrictions, reduced prices on goods sent them from Russia, and even maintained for many years that a favorable trade balance with the Eastern border states was not necessary. Politically, such economic indulgence was hailed as a challenge to capitalistic methods in Asia.

Having outlined the general system at work, Miss Conolly proceeds to trace the trade relations country by country, indicating significant developments, such as the Anglo-Soviet rivalry in Persia, the function of Mongolia as a laboratory of experiment in world revolution, and the importance of the Turk-Sib railway in Soviet plans. That Soviet efforts to capture Eastern markets have been successful, especially in textiles, is shown by an expanding trade to the East even when trade is declining elsewhere. The conjuncture of forces is favorable for continuance of that expansion: Russia's geographical position, the shift of Soviet industrial centers to the east of the Urals, and the fact that Eastern peoples are seeking modernization at a time when Soviet Russia is increasing its capacity to supply them with greater quantities of industrial goods. However, a favorable balance of trade to the east is no longer deemed unnecessary by Moscow. Profit has superseded sentiment as the controlling factor in that trade. Moreover, Turkey and Persia, in defending their national interests, have begun to stiffen their own economic policies *vis-à-vis* the great northern neighbor.

In viewing the whole subject, Miss Conolly concludes: "The successful development of Russia's Eastern trade, for which there are so many propitious factors, will ultimately depend on the extent to which economic

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pressure and revolutionary propaganda give place to a wise policy and coöperation with the East. It must also be closely affected by the capacity of Russian industry to produce better goods for the Eastern markets, which are likely to become more competitive in the future—though they are the natural Russian markets." More specifically, she adds: "If China cannot dominate the Far Eastern scene more effectually than at present, a clash between Soviet economic interests in Outer Mongolia and the Japanese economic penetration in Inner Mongolia seems inevitable sooner or later . . . However desirable it is that Russian economic and political expansion in nominally Chinese territory should cease, no good purpose could be served by weakening Russia's present strength in this triangular situation."

This meaty little volume, complete with statistical tables compiled from official sources, index, map, and bibliography, is excellently adapted to the requirements of university students. The author is to be commended for a concise treatment of a new and vast subject: Asia as the economic *hinterland* of the Soviet system in its rivalry with the capitalist system for dominance in unsaturated markets. Her second volume promises to present this problem on an even broader scale.

BRUCE HOPPER.

Harvard University.

The Bulwarks of Peace. By HEBER L. HART. (London: Methuen and Co., Ltd. 1933. Pp. xxvi, 240.)

La Coöpération Internationale. VARIOUS AUTHORS. (Paris: Librairie Alcan. 1933. Pp. vii, 213.)

Problems of Peace: Seventh Series. VARIOUS AUTHORS. (New York: The Oxford University Press. 1933. Pp. xvi, 295.)

These three brief volumes offer interesting contrasts in national points of view concerning the methods of achieving a warless world. The first, by a British barrister and former member of one of the Mixed Arbitral Tribunals, is a restatement of the author's position first laid down in 1917. In the light of subsequent events, the "propositions" put forward then represented a high degree of realistic foresight and penetrating analysis of the post-war world situation. Stated briefly, his thesis is that security is the indispensable precursor of disarmament; that it is attainable only on the conviction that the preponderance of force available for the maintenance of "the rule of law" will be great enough to suppress the aggressor; that this can be achieved only through a league of nations with executive power to determine all disputes, and with the pooled military resources of the members (on a much reduced scale) at its command. The whole system is predicated on the "proposition" that "in the world

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society as a whole there is now a prevailing disposition towards organizing for the maintenance of peace." And this organization is to be worked out, in the author's mind, pretty largely along the lines of the present League.

It is unnecessary to go farther than to the second of these books to test the "disposition" which the author believes exists. Eight Frenchmen discussed early in 1933 before the École des Sciences Politiques the economic, financial, military, and diplomatic problems involved in international coöperation; it is significant, perhaps, that the diplomatic problems were considered last. The authors of these papers are all practical men of affairs in the fields which they discuss; each approaches his particular problem from a relentlessly logical French viewpoint. Without suggesting that the whole is infused with any narrow nationalistic tinge, it would be possible to quote passage upon passage which would riddle the reality of any such "disposition" as Mr. Hart posits. The unconditional most-favored-nation clause limits too much the bargaining power of states; financial rapprochement with Germany is to be sought—but only because it is perhaps the necessary price of economic survival in the hostile environment of a "super-nationalistic" America and a Britain withdrawing into imperial economic isolation; the French military establishment must be maintained as a bulwark against a possible threat of invasion ("military service is one of the most reasonable of civic virtues; its completion more necessary to the national life than to the payment of taxes, knowledge of the law, or acceptance of a legal judgment" p. 154); a world unity cannot be built with security on the foundations of many different national mentalities and points of view, hence a positive and independent foreign policy is indispensable. This is an invaluable collection with which to illumine the contemporary mentality of France—and, indeed, of every country—with respect to the "dispositions" of its leaders toward international coöperation.

The third of these volumes, the latest of a well-known series, contains the lectures given at the Geneva Institute of International Relations in the summer of 1932 by some eleven authorities from within and without the League. In a sense, the book is a post-mortem examination of world events in the perspective of three years of depression. If most of the individual papers dealing with such specific problems as disarmament, the Far Eastern dispute, and the economic crisis record failure, or at least hesitation, in the progress of internationalism, their outlook is well summed up in the words of Dr. Rappard: "This disintegration [of the world economic organism] is the desperate protest of national sovereignty against an evolution which condemns national sovereignty." The issue is here drawn sharply. Will the answer of our age be finally given in these terms or in those of the *Realpolitik* of *La Coöperation Internationale*?

Amherst College. PHILLIPS BRADLEY.

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Peace by Revolution. By Frank Tannenbaum. (New York: Columbia University Press. 1933. Pp. 307.)

Appraisal of the Mexican revolution continues to be difficult because its economic and social phases are still in process. Estimate of the influence which historical factors have had on the current developments must be tentative. For these reasons, the first half of this volume will leave students of Mexico unsatisfied. A rapid survey is attempted of the chief institutional influences which have contributed to Mexican life—the colonial government, the church, the *hacienda*, and the political standards of which it was sought to secure adoption in the first century of independence. The presentation does not give a clear picture and is not free from repetitious discussion.

Mr. Tannenbaum is happier in his analysis of the details of the changes which are taking place in the period since the overthrow of the old régime. The discussion of the land and labor movements is sympathetically done and presents the results of extensive travel and observation. The author's conclusions are that political turmoil still limits advance. Every politician of importance is always in danger of losing his life, and politics continues to revolve around not principles but claims upon salaries from the treasury. Yet there is a widespread urge for improving the position of the long neglected Indian, and the mestizo and Indian groups are acquiring greater self-consciousness. They are unevenly and slowly winning the battle against army influence. The author thinks it may already have been won.

The fundamental law of 1917 was "one of the most significant constitutional documents of the present century." It upset the legal concept of property held in fee simple and laid the basis of the demand of land for all. Labor also was given a new charter of liberties. The ideals expressed have been realized only in "halting, piecemeal, spotty, and incidental," manner and the author thinks that it might have been better "from the point of view of the Revolution" if the large estates had been confiscated at once. Instead, the process of giving land to the landless will be indefinitely dragged out; only one-fifteenth of the landless population groups has as yet had allotments. In the long run, the *hacienda*, he believes, must disappear as the influence of the white man and the church have already done.

The labor movement is portrayed as a conservative one. It has not sought, or at least has not obtained, the adoption of the standards it advocates. In the long run, however, even though it should check the economic development of the country, it may protect the native arts and crafts, give Mexico an opportunity to develop its individuality, and "set a limit on the reach of imperialism."

University of Wisconsin. Chester Lloyd Jones.

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The American Federation of Labor. By Lewis L. Lorwin. (Washington: The Brookings Institution. 1933. Pp. xix, 573.)

This is a timely book. The American Federation of Labor is described by Dr. Lorwin as representing "the most significant organized effort of American wage-earners to supply an answer to the question of the worker's place in the national economy." At a time when the national economy is so disturbed as during the present crisis, the question of the worker's place in it is of paramount importance.

With the advice and supervision which is part of the "institutional" procedure of the Brookings Institution, Dr. Lorwin has written a history of the Federation, dividing it into four significant historical periods—Foundations, 1864–1898; National Expansion, 1899–1914; The World War and Industrial Democracy, 1914–1924; and Prosperity and the Depression, 1925–1933. In an interpretive section entitled "Policies, Problems, and Prospects," the characteristics and methods of the organization are described; while an appendix contains useful statistical information and an analysis of the present status and problems of the more important affiliated unions.

Dr. Lorwin draws the conclusion that the last ten years have undermined the philosophy formulated by the Federation at the beginning of its career and persistently followed through its subsequent history, and that the present depression has given this philosophy "a final blow." He concludes that "the problem before the Federation is to work out a new program of action in which the principles of voluntary collective relations are reconciled with the economic trend towards greater participation of government in the regulation of economic life, and to readjust its structure and methods accordingly."

The author does not give recognition to the danger of too ready and too facile a readjustment to this type of governmental regulation. Events since the writing of the final chapter, "Interpretation and Outlook," have seemed to indicate that once more, as during the war, this organization of skilled workers which the Federation primarily represents may seek strength and protection in a "partnership" of industry and government, thereby, perchance, missing the historical moment for leadership of workers in the genuine labor struggle.

On the whole, this is a cautious study of a cautious subject. It is useful to have compiled a history at a moment of historical change, though one could have wished for a more dynamic interpretation of the interplay between the capitalist structure and government as the background for a form of organization which apparently left the workers no other alternative than to seek control of "the labor market" through monopolizing skill (apparently the essence of the craft union character of the Federation).

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A companion study ought to be written of those movements of the rank and file in the unions and the sporadic and, on the whole, inarticulate struggles of the unskilled and the unorganized. Probably out of these two branches of the past history—the organized and the unorganized—will grow the form of workers' organization which will determine whether labor will accept "greater participation of government in the regulation of economic life," or whether its claim for a new status in the national economy may itself remold economic organization and remake political institutions. But this envisages possibilities which lie outside the scope of Dr. Lorwin's history. For those who are watching the present, his judicial record of the past will be useful for reference. The analysis is critical, yet eminently fair and impartial.

MARY VAN KLEECK.

Russell Sage Foundation.

Public Utilities and the People. By WILLIAM A. PRENDERGAST. (New York: D. Appleton-Century Company. 1933. Pp. vii, 379.)

Commissioner William A. Prendergast presents in this volume the results of his experience and thought as chairman of the New York Public Service Commission, a position held by him for the space of ten years. It is only fair to his readers to point out that he is at present officially identified with a large electrical company. His record with the commission was an honorable one, and he occupied a high place among the commissioners of the country.

Public Utilities and the People has for its purpose to "present a survey of the usual regulatory problems" for the lay public. The work is well-organized and the style unusually well suited to the purpose. Attention is concentrated largely on the electrical utility as being more or less typical and of peculiar importance at the present time. The problems selected range from the power trust to public ownership. Two-thirds of the work is devoted to holding companies, valuation, rates, and public ownership. Other chapters have to do with the nature and function of utilities, rate of return, accounting, and regulation.

The method of presentation is both ingenious and disarming. In most cases, it consists in presenting the attacks of outstanding critics in the form of direct quotations, followed by citations from defenders, and concluded by the arguments of the author, with occasional concessions to the points scored by the critics. Not infrequently, the writer fails to controvert the criticism, contenting himself with having cited the charges. For example, Governor Pinchot is quoted in the matter of the interstate transmission of power as stating that eleven states import over forty per cent of their power, thus indicating the need of federal regulation. But Mr. Prendergast bases his whole counter-argument on the

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average for all states, namely, less than twenty per cent. Again in the final chapters dealing with public ownership, a number of quotations from writers arguing pro and con are cited, but no effort is made to clarify the conflicting testimony. The author takes sides with the opponents, justifying himself on the ground that "logically, there is no more reason why the electrical industry should be made the goal of public ownership than the steel industry, the textile industry, the oil industry, the coal industry" (p. 366). There is no doubt of the author's intention to be fair and frank with his critics, but in many instances he has fallen short of meeting their contentions.

Two major defects of the work are worthy of note. In "a survey of usual regulatory problems," an author can hardly fail to call attention to the practices of not a few utility concerns in circumventing regulation and securing profits entirely irreconcilable with the mandate of a fair return on a fair value. But little light is thrown in this work on any of the questionable practices of utility companies which add to the difficulties of regulation. For one, the reviewer would have been pleased to see an emphasis on the public service aspects of utility management in lieu of the justification of the selfish motives of profits and power (p. 65).

The second shortcoming is the generous treatment of the commissions. All is not well with the commissions, even moderately so. For example, it is generally known that these agencies are failing in their most important function of seeing to it that companies earn only a fair return on a fair value. Hardly a commission in the country has on its books the fair value as of 1932 of even a modest proportion of the companies under its jurisdiction. As a consequence, the bodies fail to check on this essential feature of regulation from year to year. Under Mr. Prendergast's chairmanship, this was done for all electrical companies in New York State for the first time in 1929, and then not on the current fair value, but rather on such valuation as happened to be on the books. This is but a sample of the type of criticism of regulatory methods that might have been presented by a writer with the author's background of experience.

Taken as a whole, the book is an able defense of the existing order of things by a sincere and convinced advocate of it, but by one who at the same time is capable of perceiving some flaws and of proposing remedial measures. Our major criticism is that many other and more important flaws might and should have been cited and appropriately drastic remedies proposed. What utility management and regulation need—if they are to be saved—is not defense, but forthright and relentless criticism. From experience, few men are better qualified to engage in such criticism than the author of this book. Despite the general tendency to defend the status quo both of managerial and regulatory practices, the work is an instructive and worth-while contribution to the literature of the subject.

Syracuse University. WILLIAM E. MOSHER.

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Current Problems in Public Finance. New York University Symposium. (New York: Commerce Clearing House. 1933. Pp. viii, 391.)

This volume consists of fifty papers or lectures which were delivered at the National Conference on the Relation of Law and Business held under the auspices of the School of Law and the School of Accounts and Finance, New York University, during the week of December 5 to 9, 1932. The lecturers were representative business men, public officials, attorneys, editors, advertisers, university professors, executives of business associations, taxpayers' leagues, investment trusts, and others.

The fifty papers vary from less than a page to fifteen pages in length. They vary in like degree in quality, though perhaps not always in proportion to length. They appear to have been delivered at fifteen different sessions, the session topics including the following: charting the public finance problem; the proper scope of governmental activity; readjustment of local, state, and federal expenditures and taxes; educational finance; special taxes on banks, public utilities, motor vehicles, gasoline, chain stores, and sales; coördination of federal, state, and local taxes; public credit, inflation, and deflation; defaults; inter-governmental debts and tariffs; research, public education, and pressure group technique.

The conference and its published papers should serve the cause of public education and good citizenship by focusing attention upon the current crisis in public finance and by broadcasting to the general public facts and opinions familiar to all close students of this special field. One might expect also that these discussions would help resolve some moot questions and bring closer together those of conflicting opinions. The published record includes only the formal papers, however, and omits all informal discussions (if any were had) which might have helped to bridge the divergent points of view.

One of the papers of most interest to the reviewer is that of Professor Seligman on the coördination of public revenues. He recommends a combination of "four methods, the realignment of government functions, the system of credits, the division of yield, and the system of supplements."[1] "Drafting capital in aid of recovery by means of a forced loan," by H. G. Aaron of the New York Bar, is perhaps more interesting than practical. The paper on tariffs by Leland R. Robinson impresses one as stressing commercial policy more than public finance, but is of interest in calling attention to the legislative dominance of producers and the "forgotten-man" rôle played by consumers generally.

Obviously, lack of space makes impossible adequate discussion of any single paper or even the mention of more than a few. Valuable new ideas that are really practical of application are always scarce, and such a

[1] This paper was published in the *Political Science Quarterly* for March, 1933, pp. 1–22.

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conference as that sponsored by New York University is not likely to bring forth an unusual number of original suggestions. In fact, there is not much in the volume under review that has not already been presented elsewhere. This is, perhaps, true of most conferences and their published proceedings; nevertheless, they are useful in focusing attention upon important matters and in popularizing information.

ROY G. BLAKEY.

University of Minnesota.

A Philosophic Approach to Communism. By THEODORE B. H. BRAMELD. With a Foreword by T. V. Smith. (Chicago: University of Chicago Press. 1933. Pp. xi, 242.)

The End of Our Time. By NICHOLAS BERDYAEV. Trans. by Donald Atwater. (New York: Sheed and Ward. 1933. Pp. 258.)

Christianity and Class War. By NICHOLAS BERDYAEV. Trans. by Donald Atwater. (New York: Sheed and Ward. 1933. Pp. 123.)

History indelibly inscribes that successful revolution of even a misery-ridden people waits upon a philosophy of justification. Therein lies the importance of Communistic philosophy. There likewise is found the key to its understanding. It is inconsistent, of course; not the least in condemning other ideologies for being what it is itself, a class philosophy. It instances intellect as pure tool. Marx was primarily a revolutionist, admitted Engels; Lenin, a stategist and leader. Communism used materialism to undermine idealisms which bulwarked the oppressive status quo. Economic materialism taught the undying greed of the ruling bourgeoisie. Indeterminism spurred the proletariat to their own rescue. But the despairing were given heart by the guarantees of dialectic materialism.

On such a showing, the deterministic dilemma so obvious in Communism is easily resolved—both sides of the dilemma possess utility. With this Mr. Brameld agrees, but further suggests that since doctrines are reflective of attitudes, and since the frequent compresence of the deterministic and indeterministic attitudes suggests their consistency, the doctrines themselves may present no logical contradiction. He analyzes Stoicism, Spinozism, and Instrumentalism and finds in them a predominance respectively of acquiescence in (concern with) the individual, acquiescence in (compliance with) the world, and activity (indeterminism). But each philosophy embraces subordinately the primary attitudes of the other two. A similar inclusion is found in Communism, but without prejudice. It is as acquiescent in the world as in the individual; as active as acquiescent.

Brameld finds no difficulty in Communism's duality and mutuality of acquiescences, and he finds a solution for the deterministic dilemma.

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But the solution is too sketchy. It is not persuasive that the compresence of the active and acquiescent attitudes proves them consistent, nor that such consistency (as this may mean) lends itself to reflected doctrines. On the other hand, he has overlabored to establish the reality of his problem—indeed, the deterministic contradiction is prevalent everywhere, implicit if not explicit. His key concepts of activity and acquiescence in the individual and the world are extremely unclear. Documentation is copious.

M. Berdyaev deals with no such riddle. Though sharing Communism's sympathy for the oppressed, he otherwise opposes it flatly. All the more so, since a new class of the oppressed has been created. He calls upon the church to take part in the struggle: not to take sides—the past stand of the church was inexcusable—but to supply what Communism so lamentably and importantly lacks, namely, a spiritual element. Especially this, since Russian Communism, despite its protestations, is itself essentially bourgeois in spirit, being preoccupied with ways and means of increasing the supply of material goods.

To Berdyaev, who centrally holds that "man without God is not man," atheistic Communism is but the end of the road mapped and plotted by the Renaissance with its adherence to nominalism and concern for differential individualism. The men of the Renaissance borrowed flame from the mediaeval hearth, but no spark is left for Communists. The end of our time is at hand. We are now witnessing the dissolution of the democratic mythology: tolerance, equality, pacificism, popular sovereignty, democracy, individualism—banes, every one of them. Out of the ashes of the old order shall spring, is springing, a New Middle Ages, a great age of faith characterized by enjoyment of "holy realities"—and a doctrine of original sin. Such is the gist of Berdyaev's ably presented thesis, most convincing to those who do not see that Communism is not lifeless.

L. M. Pape.

University of Chicago.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND CONSTITUTIONAL LAW

In his *The First Chapter of the New Deal* (John A. Prescott and Son, pp. xvi, 510), Dr. John A. Lapp has performed a useful service by gathering together the materials dealing with the Recovery Program as enacted at the special session of 1933. The book is divided into three parts: Part I, a review of the setting of each of the new laws and of the problem which it was intended to solve; Part II, the texts of the acts, accompanied in each case by a brief digest; Part III, the presidential radio talks and addresses by prominent supporters of the President on special features of the program. The book went to press on August 1 and therefore does not contain

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the many administrative decrees, orders, and rulings, nor the important steps in administrative enforcement taken since that time. It is directed to a full, complete setting forth of the legislative program only. In this it is entirely successful. In Part I, the reader is given an impartial and well-rounded sketch of the circumstances under which each act was considered necessary. Attention is called to some controversial points and to the patriotic way in which all factions buried their differences in order to secure immediate action. The author frankly points out that it is much too early to evaluate any of the laws, but that certain outstanding facts are clear in all of them: they represent a definite departure from *laissez faire* and the introduction of a general policy of social control; they confer upon the executive a hitherto undreamed of amount of power; they are nearly all based upon the belief that government can control economic and social trends; and even those acts which are expressly stated to be emergency measures are probably permanent in their main outlines, though not in their details. The most interesting and valuable feature of the book is that section of the chapter on "Looking Backward" in which the author outlines briefly those features of the program which are new and points out that even these represent only a further advance upon precedents already set. The tone of the comments throughout is entirely sympathetic, uncritical, and even unquestioning. The book will be found extremely valuable for quick reference to essential features of the Recovery Program, and would be even more valuable if it had an index.—JAMES T. YOUNG.

The United States Shipping Board (The Brookings Institution, pp. xi, 338, by Darrell H. Smith and Paul V. Betters, is the sixty-third volume in the series of Service Monographs of the United States Government prepared by staff members of the Institute for Government Research of the Brookings Institution. In mode of treatment, it is similar to other volumes in the series. An exceedingly interesting and informative chapter on the development of governmental policy from 1916 to 1930 with respect to the merchant marine is followed by chapters describing briefly but clearly the activities and organization of the Shipping Board and its subsidiary, the Merchant Fleet Corporation. Statistical tables, which include data on ship sales and construction loans, and copies of the by-laws of the Corporation and the operating agreement in use in 1930 are found in the appendices, together with the customary outline of organization, classification of activities, list of publications, index and compilation of laws, financial statements, and bibliography. Plunged headlong into a war emergency program soon after its establishment, the Shipping Board of necessity gave first consideration to the acquisition and operation of merchant vessels, and the continued management of this fleet directly or through operating agreements occupied much of its attention in the immediate

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post-war years. More recently, however, and particularly with the passage of the Merchant Marine Act of 1928, greater emphasis has been placed upon the primary tasks for which it was created, namely, the regulation and promotion of privately-owned merchant shipping. Though the transfer of the functions of the Shipping Board and the Merchant Fleet Corporation to the Department of Commerce by executive order in 1933 renders obsolete certain sections of the book, it does not destroy the usefulness of the authors' work for those who seek dependable information concerning governmental policies relative to the merchant marine and their administration during the war and post-war periods.—LLOYD M. SHORT.

Among the many by-products of the depression period, not the least important has been the concentration of attention in the United States on the subject of international trade. In *America Self-Contained* (Doubleday, Doran and Co., pp. 340), Samuel Crowther attempts to formulate, for the United States, an economic policy in which foreign trade would play no part. In vigorous popular language, he lays down the proposition that, not only in the political, but also in the economic field, the United States must isolate itself from the rest of the world if it is to retain its birthright and regain its lost prosperity. The United States, the author holds, can easily be made completely self-sufficient with the possible exception of tea and coffee and a few other non-essential goods. In order to protect the American standard of living and to provide adequately for the requirements of our own national defense, Mr. Crowther holds, we must bar cheap goods from abroad and build up new essential industries (such as the chemical industry) behind a high tariff wall. There will probably be little or no disagreement with the author's contention that we, in the United States, have not given much thought to the implications of our recently altered economic position in the international field. That we need to examine objectively where we now stand and determine, with equal objectivity, our future program goes without saying. While Mr. Crowther's case for economic isolation is very persuasively and simply put, in a form that will appeal to the general reader, this has been done at the expense of over-simplifying a very complicated problem and by presenting only one side of the case. For example, a great deal is made of the stock argument that a reduction in our tariff will bring about a serious dislocation in American industry, whereas the dislocation in our economic life which would be brought about by the permanent elimination of foreign trade is passed over summarily. The national defense argument in support of economic self-sufficiency obviously falls outside the strictly economic field. Yet it is made, at times, to serve as a bulwark for the author's arguments in that field. Moreover, if freer international

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trade will mean greater national prosperity, as a legion of economists maintain, the nation's defense forces can be provided for more adequately than under an economic policy which results in less prosperity. Mr. Crowther has rendered a service in giving us a vigorous presentation of the case for national self-sufficiency. The subject of foreign trade, however, is a tough one. A great deal on the other side of the case is left unsaid, and is equally important for the unbiased mind if it is to reach a sound and balanced judgment on what should be the nature of our future international economic relations.—FREDERICK A. MIDDLEBUSH.

A year ago, a book by William P. Helm entitled *Washington Swindle Sheet* received notice in these pages. Now comes *Racketeering in Washington* (L. C. Page and Company, pp. viii, 321), by Raymond Clapper, a newspaper correspondent, who writes with no less vividness of the gentle art of grafting, "in small and great things," as practiced by even our most respected senators, representatives, and executives at the national capital. "Congress," says Mr. Clapper, "to win back the confidence of the nation, must demonstrate its worth." This it might conceivably do by a sustained exhibition of courage, intelligence, and disinterested statesmanship. But a good deal of ground could be regained merely by giving up "hilarious junketing" at the tax-payers' expense, padding clerk hire for the benefit of relatives and absentee retainers, and accepting mileage allowances for trips not actually taken. "Racketeering" may be a strong term for some of the practices upon which Mr. Clapper bestows his good-humored but pointed criticism. By all rational standards, however, they are at least wasteful and indefensible customs. Giving them up would not balance the budget; but it would create a rather favorable impression—at least among those of the citizenry who know all too well where some of their tax dollars actually go.

Marred by the traditional faults of a doctoral dissertation, Walter H. Mohr's *Federal Indian Relations* (University of Pennsylvania Press, pp. xi, 247) rehearses the story of Indian affairs between 1763 and 1788. The study must be considered as merely preliminary to a satisfactory treatment. It appears that Mr. Mohr has only scratched the surface of a most important body of material relating to his subject—the Draper manuscripts in the library of the Wisconsin Historical Society. Although Mr. Mohr's narrative includes some useful information, it is unfortunate that he has been satisfied merely to present a string of details and that he has not attempted a coherent analysis and appraisal of the issues, problems, personalities, and policies connected with the subject. After all, the work of the historian does not end with taking and classifying notes. An exposition of the meaning, integration, and influence of facts is not amiss.—CURTIS NETTELS.

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Students of contemporary American government, as well as business executives, editors, trade association officials, and others, will find of great convenience *A Handbook of NRA: Laws, Regulations, and Codes* (Federal Codes, Inc., pp. 412), compiled under the direction of Lewis Mayers, member of the New York bar and professor at the College of the City of New York. The volume itself contains authenticated texts of all statutes, presidential messages, and formal statements relating to the NRA to the time of publication in September, 1933, and is supplemented by the *NRA Reporter*, issued bi-weekly by the same publishers and incorporating all of the significant new official materials as they appear. A limited amount of editorial explanation is supplied, but the sole object of the publication is to make available the texts in unabridged, accurate, and usable form; and in this it succeeds admirably. The official texts of judicial decisions, as they appear, will be included.

FOREIGN AND COMPARATIVE GOVERNMENT

Robert A. Brady's *The Rationalization Movement in German Industry* (University of California Press, pp. xxi, 466) is both an encyclopedia of post-war developments in German industry and life, and a thesis. The author is evidently in sympathy with the philosophic goals of the rationalization movement, whose roots lie in ds extending back through several decades of pre-war development, but which did not emerge into full consciousness as the dominant motive in German national life until the period 1924–29. But the actual workings of rationalization brought more of disappointment than of success. Often of marked value within limited fields, rationalization was unable to surmount the clash of special interests within Germany, plus unfavorable conditions imposed from without. The author holds that the movement, through its sins of commission and omission, must bear a considerable share of responsibility for the collapse of German economic life which began in 1929. Following a brief introductory sketch, Part I analyzes the elements of rationalization: science in industry, standardization, scientific management, the concept of economic planning. This part is noteworthy for its philosophic breadth and thoroughness; though in places the reader is perhaps not kept sufficiently aware that the author is telling of the growth of certain ideas in the German mind, rather than making an analysis of his own. The author returns to a more factual presentation in Part II, where he sketches the course of the rationalization movement in selected German industries. Part III discusses the meaning and practical consequences of German rationalization in terms of economic stability, politics, labor attitudes, and various phases of culture. Many of the objectives sought by the Germans under the name of rationalization would seem to be akin to present aims in America; but attendant conditions are widely dissimilar. Hence the happy

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combination of factual presentation and analysis contained in Professor Brady's work should be most helpful to all who in this hour of our own experimentation wish to examine the German record in search of ideas, or comfort, or warning.—HORACE B. DRURY.

The student of the current internal politics of France will be glad to know of the appearance of *French Royalist Doctrines since the Revolution* (Columbia University Press, pp. x, 326), by Charlotte Touzalin Muret. As its preface insists, the book is not a history of royalist parties in modern France. At the same time, it sets out most of what is important about the Action Française, the existing royalist party, the influence of which is well known to be much greater than the relatively small size of its membership might suggest. There is an extended account not only of the doctrines of the more important members of this organization, but of the doctrines of their precursors as well. Since no satisfactory understanding even of a matter like the basic distinction between Right and Left in France is possible without some knowledge of the existing position of royalist doctrine and its history, no further justification perhaps is needed for this book. However, its preface suggests that the prevalent anti-democratic movement adds value to a study of views which have been consistently anti-democratic. After a short introduction, an initial chapter is devoted to the doctrines of the theocrats, more especially to those of de Bonald and de Maistre. Chateaubriand's views are set out as typical of "romantic" royalism; Royer-Collard is discussed as a "doctrinaire." Three chapters are allotted to "liberal" monarchist views, special attention being given to Benjamin Constant and Guizot. Next in order are treated the "parliamentary legitimists" and the "authoritarian legitimists." A chapter is devoted to the views of the Comte de Chambord and the Comte de Paris, and another to the Ralliément. A chapter on La Tour du Pin is followed by three final chapters on the Action Française.—R. K. GOOCH.

The Institute of Pacific Relations, Victorian Branch, has issued a second volume of studies entitled *The Peopling of Australia* (Melbourne University Press, pp. 327). This is the work of fourteen Australian scholars, and forms part of a comprehensive program of research being carried on from local viewpoints in the countries bordering the Pacific. Australia is commonly regarded as one of the few relatively empty spaces of the earth; hence Japan has been suspected of casting covetous eyes in that direction, and there have been systematic efforts in Britain of recent years to utilize the southern Dominion as a principal outlet for her surplus population. The present survey is an effort to appraise scientifically the various factors which will determine the ability of Australia to absorb further immigration on any considerable scale. Following an excellent

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introductory analysis of the problem by Professor P. D. Phillips, the first section of the volume deals with the historical background and the psychological factors involved. Then follows an examination of the economic factors. Here two antithetic points of view, with divergent conclusions, are noted among the contributors. The one regards the problem primarily from the international viewpoint, as depending upon the ability to find markets for an increased exportable surplus, and is therefore pessimistic as to the prospect. The other sees less dependence upon external trade and comparative costs, and envisages a more hopeful future on the basis of internal exploitation and diversified production. The third section is devoted to consideration of the political factors operative, and to the actual working of settlement projects in Victoria and Western Australia. The relative failure of the latter is attributed to lack of discrimination and of competent technical advice. While government aid is admittedly essential to such projects, it must not be so applied as to undermine the settlers' initiative or to subsidize the inherently unfit.—A. GORDON DEWEY.

Students of world politics who want to know how England secured her foothold in India, the methods employed to extend her domination, and the policies used to maintain her grip over that Asian sub-continent will find it worth while to peruse Professor Gurmukh Nihal Singh's *Land-Marks in Indian Constitutional and National Development, 1600–1919* (The Indian Bookshop, pp. xxx, 711). The work is divided broadly into two sections. The first part deals with the rule of the East India Company, and the second with India under the British crown from 1861 to 1919. The author traces the slow development of representative institutions and the rapid growth of the nationalist movement. Exploiting imperialism, with its veneer of self-righteousness, is set against the background of the rising tide of nationalism. Mr. Singh gives a clear insight into the existing system of English government in India, but carefully avoids "apportioning praise or blame." He plays safe. Nevertheless his facts, supported by numerous and authoritative citations, speak loudly enough for those who have ears to hear. The volume is particularly timely, and, best of all, it is written in a judicial temper from the standpoint of a constitutional historian. Though free from emotional or sentimental encumbrances, the book could be improved by condensation.—SUDHINDRA BOSE.

INTERNATIONAL LAW AND RELATIONS

Mr. F. R. Eldridge has written *Dangerous Thoughts on the Orient* (D. Appleton-Century Co., pp. ix, 232) to support a thesis. Put briefly, this is that "Japan, the only world power in the Far East, wants order, safety, and progress for the Orient" (p. 9), and that she should be supported, not condemned, for breaking through the sentimental control of policy im-

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posed in such unrealistic agreements as the Nine-Power Treaty, the Kellogg Pact, and the League Covenant. Realism requires a recognition of the impossibility of establishing peace except by methods of military dominance. The Japanese are justified in determining the course of events in the Far East in their own interest, since to do so is essential to their economic preservation, and any one who questions that right and believes that other states, with their own conceptions of interest different from that of Japan, should have endeavored to restrain Japan is guilty of harboring "dangerous thoughts." In support of this thesis, Part I of the book is devoted to a consideration of the historical relations of Japan with the World, America, China, Manchuria, and Russia. Part II presents Japan's heritage in the fields of art, literature, the drama and poetry, philosophy and thought, commerce and industry, and labor and capital developments. Part III presents China's environment through successive chapters on China and the World, America, Manchuria, and Russia. The final chapter presents specifically the "dangerous thoughts," returning to the theme of the introduction. The book offers nothing new to the student. For the general reader, the book itself is dangerous because superficial, contradictory in analysis, and filled with historical inaccuracies. Thus the last use of the sword at home is stated to have been during the Restoration (p. 17), and yet the samurai rebellion (1878) involved its use (p. 31); the South Manchurian Railway concession is discussed as one for twenty-five instead of eighty years (p. 43); the Lansing-Ishii Agreement, though dating from 1917, "had been Japan's price for entering the war against Germany" (p. 47); H. G. W. Woodhead becomes H. W. Woodward (p. 197). There is truth in the book, but much of it is presented in such a way as to leave false impressions.—HAROLD M. VINACKE.

The third issue of *The International Labor Office Year-Book* (Geneva, pp. 459) contains a wealth of information which should make it a valuable reference book for scholars interested in labor or social legislation. A brief general introduction summarizes the activities of the I.L.O. for the year and its relations with other organizations. Chapter I, well fortified with statistical tables, reviews the present economic situation (prices, finance, production, trade, income, etc.), and the following two chapters, dealing with conditions of work and social insurance, contain a detailed and well organized account of recent developments in national regulation of conditions of labor. After perusing some of the articles noted, the reader may be surprised to learn that "the necessity of protecting the workers against occupational and social risks is no longer seriously contested" (p. 225). The report recognizes that social insurance has been hard hit by depression and unemployment, but sees no falling off in the activity of institutions already set up. Shorter chapters are devoted to wages, unemploy-

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ment, placing and migration, workers' rights, and special problems. Statistical tables fill fifty pages of appendices; and the value of the report is further increased by a good index.—JOHN D. LEWIS.

Who may be the parties to relations of international law? What is the nature of the concept of personality, capacity for rights and duties in the world community? Such is the inquiry raised in Giambattista Mazzoleni's abstruse essay in the field of jurisprudence, *Personalita giuridica e soggetti del diritto internazionale* (Libreria Treves, pp. 110). The volume comes from the University of Pavia, and is based mainly on the works of Diena, Fedozzi, Cavaglieri, Jarrige, Gemma, and Anzilotti. In the author's view, sovereignty is irrelevant, and the word should be banned. Juridical capacity, in varying degrees as qualified by the legal facts in the individual case, is the essential point. International personality "ought to be ascribed to every entity which has an organization of its own, and professes purposes for which it has adequate means and maintains relations with other subjects of international law." This includes the Holy See, which may be regarded as a personal union of two diverse entities, the City of the Vatican (political) and the Catholic Church (religious), both enjoying capacities for rights and duties in international relations. The concept of "subject" includes also such various entities as vassal states, ethnic minorities, colonial corporations, recognized insurgent communities, the Reparations Commission, and the Bank of International Settlements, and even individuals so far as they have standing before international tribunals, actively in appeals to an international prize court, passively as breakers of international law on piracy, slave trade, or interference with treaty-protected cables.—H. R. SPENCER.

In *La Notion du "Politique" et la Théorie des Différends internationaux* (Recueil Sirey, pp. 92), Hans Morgenthau outlines the problem of the classification of international differences, criticizes the commonly accepted views, and attempts, avowedly from a purely theoretical rather than a practical point of view, to arrive at a scientifically unassailable classification. As such, his task differs from, and in his judgment is necessarily preliminary to, studies such as those of Lauterpacht, which consider the classification of international differences above all from the practical angle of their justiciability. The author, although holding that an international judicial tribunal is competent to render a material decision on any question submitted to it, whatever the nature and content of the question, claims that political differences which are essentially tension questions involving national power and prestige may not be subjectively justiciable—the parties will be prevented by a psychological repugnance from submitting them to the decision of organs of international jurisdiction. In certain cases, however, as, for example, the Austro-German cus-

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toms union controversy, a question can be divested of its political character in the sense that for purposes of judgment it can be separated by the court from its connection with a situation of tension. The author expects to develop the practical consequences of his conclusions in a later work.—FRANK M. RUSSELL.

Public Opinion and World Politics (University of Chicago Press, pp. xiii, 237), edited by Quincy Wright, contains lectures on the Harris Foundation delivered at the University of Chicago in 1933 by John W. Dafoe, managing editor of the *Winnipeg Free Press;* Jules Sauerwein, foreign editor of *Paris-Soir;* Edgar Stern-Rubarth, of Wolff's Telegraphic Bureau; Professor Ralph H. Lutz of Stanford University; and Professor Harold D. Lasswell of the University of Chicago. The lectures are devoted to public opinion and to propaganda, the former obtaining little more than oratorical treatment. By contrast, several phases of the technique of propaganda are studied with some care. Particularly thought-provoking is the final essay, by Professor Lasswell, on "The Strategy of Revolutionary and War Propaganda," although in places the article requires translation from the jargon one has come to associate with the Chicago school. At least two-thirds of the volume is composed of random commonplaces which might well have been left unprinted. Surely the *procès-verbaux* of the round-table meetings would be better worth preserving than the lectures here reproduced. If not, minutes and lectures might be carefully mimeographed and deposited in library stacks. The one or two lectures worth publication could be decently interred in scientific periodicals.—HERBERT W. BRIGGS.

Students of colonial government and administration and of world politics will find C. B. Fawcett's *A Political Geography of the British Empire* (Houghton Mifflin Co., pp. xiii, 409) an admirable manual of the political status, populations, resources, products, industries, trade relations, communications, and environmental features of all parts of the Empire. The author is a professor of economic and regional geography in the University of London and a thoroughly competent scholar. Particular interest attaches to his brief but pointed discussion of such matters as the outlook for the maintenance of a "White Australia," the possibility that in time Great Britain may be even more favorable to Indian independence than the peoples of India themselves, and difficulties obstructing the rise of an East African self-governing dominion. Numerous black-and-white maps add to the usefulness of the book.

International Adjudications, Modern Series, Vol. VI (Oxford University Press, pp. xxv, 418), edited by John Bassett Moore, is complementary in a special sense to Volumes I and II of the same series and deals with the

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proceedings and the award of the mixed commission which, under Article 4 of the treaty of Ghent, determined title to certain islands in Passamaquoddy Bay and the Bay of Fundy. To a recital of the proceedings, Judge Moore has appended an abridgment of the arguments of the agents, to the extent of over 300 pages; but they have assuredly "not lost any of the force and meaning they were intended to convey." The arguments seem of greater lasting importance than the Award; indeed, the description of the process by which the latter was reached (pp. 29–34) suggests the reflection that, even in international questions, the "essence of judicial duty" for a commissioner is *to decide*.—LLEWELLYN PFANKUCHEN.

Supplement 2 to *Papers Relating to the Foreign Relations of the United States, 1918: The World War* (Government Printing Office, pp. lxxix, 862) covers in general the period from the entrance of the United States into the World War to the date of the Armistice, and is announced as the last of the series pertaining to the war period. Edited with the same thoroughness that has been praised in notes in this REVIEW dealing with earlier volumes, the papers in the present collection are grouped under eight general heads, i.e., prisoners of war, enemy aliens, enemy property, trading with the enemy, relief operations, military service conventions, legal status of members of American forces in Europe, and miscellaneous.

In *Far Eastern Front* (Harrison Smith and Robert Haas, pp. 336), Edgar Snow presents a readable running account of the Sino-Japanese "war" of 1931–33 as viewed by a youthful but competent American newspaper reporter. The book is one of the sort that can be skimmed for interesting observations and impressions, but contains nothing of more substantial worth for the serious student.

POLITICAL THEORY AND MISCELLANEOUS

In the preface to *The Public Career of William M. Evarts* (University of California Press, pp. 297), Brainerd Dyer comments on the lack of a thorough study of this eminent American statesman. Strangely enough, in setting for himself the task of supplying the needed biography, Mr. Dyer omits all mention of the sketch of Evarts by Claude G. Bowers and Helen Dwight Reid in *The American Secretaries of State* series. They, too, called attention to the fact that there was no good biography of Evarts, and by so doing, emphasized the importance of Mr. Dyer's book, which fills a significant gap in the list of biographies of American statesmen. Although Mr. Dyer has concerned himself primarily with Evarts' public career, he has included enough details of a personal or domestic nature to add materially to a proper appreciation of Evarts' public life. Born in Boston, Evarts was educated at the Boston Latin School and at Yale, where he

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proved to be sufficiently mischievous in his senior year to draw upon himself a written reprimand from President Day. Mr. Dyer has described Evarts' public services, which included terms as attorney-general, secretary of state, and United States senator, with scholarly discrimination. He properly ranks Evarts as one of our greatest lawyers, pointing to his work as counsel for President Johnson in the impeachment trial, as counsel for the United States in the Alabama claims arbitration, and as counsel for the Republican party in the contested election between Hayes and Tilden. Evarts also ranked with the best of American orators. He was selected to deliver the oration at Philadelphia on the centennial of the Declaration of Independence. Mr. Dyer places Evarts below Seward, John Sherman, Blaine, and others of his contemporaries as a politician and statesman. He was not a sagacious politician, nor did he possess the popular appeal so necessary for success in politics. Mr. Dyer has summed up Evarts' character well in the following words: "Though a transplanted New Englander, Evarts never outlived his New England heritage. It emerges and persists in his instinct for public service and devotion to public duty, as well as in his unsullied integrity and the solidity of his character." A bibliography adds value to the book.—EVERETT S. BROWN.

The importance of Rupert B. Vance's *Human Geography of the South* (University of North Carolina Press, pp. xiv, 596) will be increasingly manifest. He has taken as his high aim a study of regional resources and human adequacy—"a synthetic treatment of the interaction of men and nature in the American South." The concept of the region, physical and cultural factors, economic and political forms, is given masterly expression in broad terms of population, soil, climate, culture, and heritage. Dr. Vance is not interested in the sterile doctrine of state's rights or the old fire-eating sectionalism. His book is a basic study of regionalism and regional planning which has for its purpose the reconstruction of a region. The economic basis of the rehabitation of the region is given ample documentation, and agriculture and mineral and industrial resources are set out in attractive ways; but the major demand for social guidance in the region is the dominant theme of the book. The emphasis is upon the broad aspects of regional culture, and a culture which is not in conflict with a nationalism whose strength is based upon alert and intelligent regional differences. But plainly this human culture is more important than the system of profits and exploitation of region and peoples which has almost made impossible the necessary energy and vision that regional planning requires. Written in sympathy and brilliance, the study is the appropriate textbook for the Tennessee Valley Authority, and easily takes first place in the growing literature of regional and national social planning.—CHARLES W. PIPKIN.

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The second volume of M. N. Pokrovsky's *Brief History of Russia*, translated by D. S. Mirsky (International Publishers, pp. 348) deals in much detail with the political and economic affairs of the tsarist empire from the rise of commercial capitalism in the later nineteenth century to and including the revolution of 1905. The author is a Communist, and the ambitious work upon which he is engaged may be regarded as a semi-official undertaking—one, at all events, which has the warm endorsement of not only Lenin in his day but the key personages at Moscow at the present time. Recognizing that many of his readers will have been witnesses of the major events dealt with in the present volume, M. Pokrovsky indicates a purpose to subordinate narrative to interpretation—"interpretation," he says, "of what is still for us the present," meaning that the beginning of the strike movement, the armed insurrections of the period of the war with Japan, the growth of the Bolshevik party, the creation and failure of the Duma, and the terrors of the Stolypin régime are but phases of the unified, continuous, and as yet far from completed Russian revolution. "We who are Marxists," he writes, "are more advantageously placed than our bourgeois predecessors: we possess what they do not possess, a *method*, a key to the interpretation of all developments, whether they took place yesterday or thousands of years ago." Fortified with such assurance, the author plunges into his subject, and, it must be conceded, writes a very readable and interesting book—one which no person desiring to comprehend Bolshevist ideology in its deeper recesses can afford to ignore. —F. A. O.

The *China Year Book, 1933* (North-China Daily News and Herald, pp. xvi, 785), edited by H. G. W. Woodhead, is the fifteenth annual issue of this valuable work of reference. One can readily accept the editor's testimony that preparation of the volume proved exceptionally difficult because of the absorption of the government departments in the Sino-Japanese crisis; also that, notwithstanding that the established practice of printing original documents on controversial topics was adhered to, space could be found for less than half of the materials placed at his disposal in connection with the Sino-Japanese dispute. Even so, more than sixty double-column pages of documents and summaries on this latter subject are presented, including the inevitable digest of the Lytton Report. A very adequate record of the affairs of the Kuomintang party and of the Nationalist government occupies half a dozen chapters; and there is the customary statistical and descriptive matter, in great detail, on trade, finance, industry, communications, labor, education, currency, shipping, religion, justice, and public health. Treaty revision, extraterritoriality, and certain other topics customarily treated are, however, omitted on the ground that they had ceased to be "live issues" in the period

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under review. Students of Far Eastern affairs continue to be deeply indebted to Mr. Woodhead for his enterprise in keeping this year-book going, and on a high plane, under circumstances of peculiar difficulty. —F.A.O.

The Company of the Indies in the Days of Dupleix (Chemical Publishing Co., pp. ix, 238), by Wilbert H. Dalgliesh, is a detailed study based principally upon the French archives. The book describes the Company's economic and administrative organization and activities in India and France from 1722 to 1754, and its chronic inability to become self-supporting. One principal cause of this was the inefficiency or dishonesty of many employees, which resulted partly from the system of inadequate salaries supplemented by private trade, and partly from nepotism. The Company was very largely controlled by the king, and this compelled it to conciliate his ministers and favorites by finding posts for their protégés, many of whom were either incompetent or fortune-hunters. The general conclusions tend to be overshadowed by the mass of interesting details given. The value of the monetary tables would have been increased by giving the modern values of the eighteenth-century French and Indian coins.—Lennox A. Mills.

"Big Dick" Butler, as he appears in *Dock Walloper; The Story of "Big Dick" Butler* (G. P. Putnam's Sons, pp. v, 276), by Richard J. Butler and Joseph Driscoll, improves upon acquaintance. At first—and at last too—he strikes one as being a garrulous Irishman interested in whiskey and fighting, and because of his environment (Hell's Kitchen) in strong-arm politics. The reader cannot hear his fog-horn voice, but he can see Big Dick sitting on the edge of a bed or desk, guzzling Lincoln Inn, and telling his encouraging audience—Mr. Joseph Driscoll of the *New York Herald-Tribune*—about his vigorous and exciting life. Whether he was at the moment working for his ticket, boss of the longshoremen, saloon-keeper, or man-about-town, he was always the fighter and fixer. "The most neglected public servant in American life today is the fixer" (p. 237). He speaks of bribery and ballot-box stuffing as another person might speak of the weather. He is always the dead game sport, and now at fifty-eight he is ready for the next big adventure. Mr. Driscoll has told Dick's story well, though vividness might have been gained if part of the narrative had been in Mr. Butler's own words.—J. T. Salter.

The Annals of the American Academy of Political and Social Science, Vol. 170 (November, 1933, pp. 204), devoted to "Social Insurance," contains a series of papers on social insurance in general, unemployment insurance, old age pensions, and health insurance. Arguments for insurance and statements of present tendencies are particularly well presented by

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I. M. Rubinow, Abraham Epstein, and John B. Andrews. There is, however, no real criticism to balance the optimism of the advocates in an article by a private insurance broker who sees all forms of social insurance as insidious socialist plots, "infections" from "decadent countries, of Europe," which attempt to repeal God's natural law and speed us on the way to Moscow. Nor is the reader enlightened by another paper citing the usual popular arguments *contra*, and bolstered by copious quotations from leading churchmen.—JOHN D. LEWIS.

In *Our Earliest Colonial Settlements* (New York University Press, pp. vii, 179), Professor Charles M. Andrews presents a compact survey which embodies, in an attractive, vigorous literary style, all important research on its subject. The six studies of the volume compose an original synthesis of the many intricate factors of early colonization, with emphasis upon political and religious influences. Sir Walter Raleigh as the pioneer promoter of English colonies, the part of the Virginia Company in the early history of Virginia, the spirit of independence in Massachusetts, individualism in Rhode Island, the social stability of Connecticut, and the workings of the proprietary form of colonization in Maryland are the themes of the essays. Professor Andrews' learning and breadth of view enable him to speak with assurance on a wide range of subjects, and in their largest aspects. The essays are among the ripest fruits of American historical scholarship.—CURTIS NETTELS.

Canadian Papers, 1933 (Canadian Institute of International Affairs, pp. 99) is a series of papers prepared for the use of the round tables at the conference of the Institute of Pacific Relations at Banff, Canada, August 14–28, 1933. A paper on the Imperial Economic Conference, by K. W. Taylor, and a statistical outline of Canadian foreign trade, by J. M. MacDonald, relate particularly to Pacific affairs. Papers on Canadian governmental policy on tariffs and wheat control, by W. A. Mackintosh and Steven Cartwright, respectively, are of more general application and interest. Together, these papers discuss various aspects of Canadian economic life in a manner that will please the non-expert and general reader as much as the experts for whose use they were specially prepared.—JOSEPH R. STARR.

Professor Carl Wittke's *History of Canada* (F. S. Crofts and Co., pp. 443) is a second and revised edition of a book which, since its initial publication in 1928, has been of considerable value for political scientists by reason of its emphasis on the Dominion's rôle in the development of British imperial policies. A new chapter presents a good picture of Canadian politics in the past five or six years.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

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CHARLES S. HYNEMAN
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AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Adams, Arthur B. Our economic revolution: solving our depression problems through public control of industry. Pp. 209. Norman, Okla.: Univ. of Okla. Press.

Agricultural emergency in Iowa. Pp. 211. Ames, Ia.: Collegiate Press.

Allen, William D. American enlightened imperialism. N. Y.: Universal Pub. Co.

Association of Reserve City Bankers. The guaranty of bank deposits. Pp. 43. Chicago: Assoc. Reserve City Bankers.

Ayers, L. P. The economics of recovery. Pp. 195. N. Y.: Macmillan.

Beard, Charles A., and *Smith, G. H. E.* The future comes. Pp. 178. N. Y.: Macmillan.

Brady, J. E. Federal banking laws, 1933 edition. Cambridge, Mass.: Author.

Bratter, H. M. Should we turn to silver? Pp. 30. Chicago: Univ. of Chicago Press.

Braxton, A. C. The fifteenth amendment: an account of its enactment. Pp. 64. Staunton, Va.: Author.

Chadbourn, James H. Lynching and the law. Pp. 232. Chapel Hill, N. C.: Univ. of N. C. Press.

Clapper, Raymond. Racketeering in Washington, Pp. 328. Boston: L. C. Page.

Collins, Edward H. Inflation and your money. Pp. 32. N. Y.: Duffield & Green.

Corliss, J. B. Manual of civic reform. Detroit: Continental Print Co.

Current problems in public finance. Pp. 399. Chicago: Commerce Clearing House.

Dorf, P., ed. Selected messages and addresses of President Franklin D. Roosevelt. (Pamphlet) N. Y.: Oxford Book Co.

Faÿ, Bernard. Roosevelt and his America. Pp. 313. N. Y.: Macmillan.

Finkelstein, Maurice. The dilemma of the supreme court: is the N.R.A. constitutional? Pp. 31. N. Y.: John Day.

Fosdick, Raymond B., and *Scott, Albert L.* Toward liquor control. Pp. 236. N. Y.: Harper.

Gray, J. H., and *Levin, J.* The valuation and regulation of public utilities. N. Y.: Harper.

Harding, Arthur L. Double taxation of property and income; a study in the judicial delimitation of the conflicting claims of taxing jurisdiction advanced by the American states. Pp. 336. Cambridge, Mass.: Harvard Univ. Press.

Holcombe, Arthur N. The new party politics. Pp. 148. N. Y.: Norton.

Hone, D. W. Taxes and tax dodgers. Pp. 15. Chicago: Socialist Party.

Johnson, Claudius O. Government in the United States. N. Y.: Crowell.

Koser, L. R. Public control of the production by public utilities of electric power. Pp. 12. Urbana, Ill.: Univ. of Ill.

Lee, Alva. America swings to the left. N. Y.: Dodd, Mead.

Lewis, E. E. A primer of the new deal. Pp. 70. Columbus: Am. Educ. Press.

Lindley, E. K. The Roosevelt revolution; first phase. Pp. 336. N. Y.: Viking.

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Looker, Earle. The American way; Franklin Roosevelt in action. Pp. 382. N. Y.: John Day.

McFee, Mrs. Inez N. C. How our government is run. 2d ed. by Adelaide R. Hasse. Pp. 358. N. Y.: Crowell.

Mason, A. T. Brandeis: lawyer and judge in the modern state. Pp. 209. Princeton, N. J.: Princeton Univ. Press.

Michelet, Simon. Handbook of the securities act of 1933. Wash.: Author.

Moon, P. T., ed. Current problems of unemployment and recovery measures in operation. Pp. 108. N. Y.: Acad. of Pol. Sci., Columbia Univ.

Moses, Belle. Franklin Delano Roosevelt: the minute man of '33. Pp. 202. N. Y.: Appleton-Century.

Neilson, Francis. Control from the top. Pp. 190. N. Y.: Putnam.

Nevins, Allan, ed. Letters of Grover Cleveland, 1850–1908. Pp. 659. Boston: Houghton, Mifflin.

Newfield, E. H. The A.B.C. of the securities act. Pp. 96. N. Y.: Author.

The N.R.A.; national retrogression act? Pp. 40. N. Y.: N. Y. Labor News Co.

One hundred civil service examinations, comprising requirements, full information, and practice examinations for all popular city, county, state, and federal positions. Pp. 248. Milwaukee: Pergande Pub. Co.

Phayre, Ignatius. Can America last? Pp. 318. London: Murray.

Schnitman, L. S. How safe is life insurance? Pp. 256. N. Y.: Vanguard.

Seagle, William. There ought to be a law: a collection of lunatic legislation. Pp. 158. N. Y.: Macauley.

Shaw, Carroll K. Administrative control of field services in the United States treasury department. Pp. 17. Urbana, Ill.: Univ. of Ill.

Sullivan, Mark. Our times: the United States, 1900–25. Vol. 5. Pp. 699. N. Y.: Scribner.

Thomas, Norman H. A socialist looks at the new deal. Pp. 19. N. Y.: League for Indus. Democ.

Untereiner, R. E. The tax racket: what we pay to be governed. Pp. 161. Phila.: Lippincott.

Wells, Gabriel. Common sense and the crisis. (Pamphlet) N. Y.: Doubleday, Doran.

Weyforth, W. O. The federal reserve board. Pp. 225. Baltimore: Johns Hopkins Press.

Winrod, G. B. Communism and the Roosevelt brain trust. Pp. 26. Wichita, Kan.: Defender Pubs.

Wooddy, C. H. The growth of the federal government, 1915–1932. N. Y.: McGraw-Hill.

Articles

Administration. Shall Texas reorganize? J. A. Burdine. Southwest Rev. Summer, 1933.

———. Administrateurs et administrés aux États-Unis. *E. Pendleton Herring.* Rev. Sci. Pol. July–Sept., 1933.

———. Administrative discretion. *Henry Wolf Biklé.* George Washington Law Rev. Nov., 1933.

———. The rise of the commissars. *Forrest Davis.* New Outlook. Dec., 1933.

Administrative Law. Administrative tribunals and the courts. *D. M. Gordon.* Law Quar. Rev. July, 1933.

———. Judicial review in customs taxation. *G. S. Brown.* Lawyer & Banker. Sept.–Dec., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Constitutional limitations on administrative power of investigation. *Albert Langeluttig.* Ill. Law Rev. Dec., 1933.

Agriculture. Misfire, *M. R. Byers.* No. Am. Rev. Dec., 1933.

———. The battle of the milksheds. *L. Harris.* Current Hist. Nov., 1933.

———. Toward planned harvests. *C. C. Davis.* Rev. of Revs. Dec., 1933.

———. Marketing agreements under the agricultural adjustment act: their contents and constitutionality. Pa. Law Rev. Dec., 1933.

Aviation. State and federal promotion and control of aviation. *R. S. Boutelle* and *Others.* Jour. Air Law. Oct., 1933.

Banking. National bank offenses. *J. E. Hoover.* Jour. Crim. Law & Crim. Sept.–Oct., 1933.

———. What shall we do with our savings? *E. E. Muntz.* So. Atlan. Quar. Oct., 1933.

———. The insurance of bank deposits. *Evans Woollen.* Atlan. Mo. Nov., 1933.

———. Defrosting frozen bank deposits. *J. S. Lawrence.* Rev. of Revs. Nov., 1933.

———. The Glass-Steagall banking act of 1933. *Unsigned.* Harvard Law Rev. Dec., 1933.

———. Banking act of 1933. *H. H. Preston.* The banks, the states, and the federal government. *Bray Hammond.* Am. Econ. Rev. Dec., 1933.

———. Michigan magic. *John T. Flynn.* Harper's. Dec., 1933.

———. The future in banking. *H. Parker Willis.* Yale Rev. Winter, 1933.

Bankruptcy. National bankruptcy legislation. *R. G. Hunt.* Com. Law League Jour. Nov., 1933.

Brandeis. Mr. Justice Brandeis. *Morris Cohen.* Harvard Law Rev. Nov., 1933.

Communism. Blunder on the left. *Lillian Symes.* Harper's. Dec., 1933.

Constitutional law. The future of the constitution. *James M. Beck.* Am. Bar Assoc. Jour. Sept., 1933.

———. Subsoiling the constitution. *Editor.* Lawyer & Banker. Sept.–Dec., 1933.

———. Le vaisseau de l'état américain. *Nicholas Murray Butler.* L'Esprit Int. Oct., 1933.

———. A forgotten section of the fourteenth amendment. *P. J. Eder.* Cornell Law Quar. Dec., 1933.

———. Socialism and the constitution. *Forrest R. Black.* Ill. Law Rev. Dec., 1933.

———. **Commerce Clause.** The passing of the state commerce power. *R. J. Swenson.* Temple Law Quar. Nov., 1933.

———. **Due Process.** Federal habeas corpus statutes and Moore v. Dempsey. *J. S. Waterman* and *E. E. Overton.* Chicago Law Rev. Nov., 1933.

———. **Equal Protection.** Legality of race segregation in educational institutions. *E. J. R.* Pa. Law Rev. Dec., 1933.

———. **Obligation of Contracts.** Stare decisis, state constitutions, and impairing the obligation of contracts by judicial decisions. *Louis B. Boudin.* N. Y. Univ. Law Rev. Sept., 1933.

———. The impairment of contracts: mortgage and insurance moratoria. *Charles Bunn.* Chicago Law Rev. Nov., 1933.

———. **Police Power.** What is meant by police power? *F. H. Essert.* Neb. Law Bull. Nov., 1933.

———. The police power and economic reconstruction. *Ray A. Brown* and *Howard L. Hall.* Chicago Law Rev. Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. **Search and Seizure.** Evidence obtained by illegal search and seizure. *M. R. Glenn.* Ky. Law. Jour. Nov., 1933.

Cost of Government. The drift in federal finance. *L. J. Dickinson.* Rev. of Revs. Dec., 1933.

Currency. Economics, old, blue eagle, and new. *E. F. Harvey.* All Hottentots or millionaires. *Norman Lombard.* Retort to the fight over money. *R. A. Lester.* No. Am. Rev. Nov., 1933.

———. Silver diplomacy. *Jeannette P. Nichols.* Pol. Sci. Quar. Dec., 1933.

———. Monetary inflation and price raising. *L. D. Edie.* Yale Rev. Winter, 1934.

Education. Deflating the schools. *A. D. Carlson.* Harper's. Nov., 1933.

Elections. The ballot's burden—an analysis of the 1932 election in Oregon. *Waldo Schumacher.* Commonwealth Rev. July–Nov., 1933.

Food and Drugs. "False and fraudulent." *T. Swann Harding.* No. Am. Rev. Nov., 1933.

———. Patent medicines and the law. *A. J. Cramp.* Am. Mercury. Nov., 1933.

———. The national government and false advertising. *T. E. Shearer.* Ia. Law Rev. Nov., 1933.

Government Services. The work of the bureau of standards in electricity and radio. *E. C. Crittenden.* Home economics research by the federal government. *Louise Stanley.* Scientific Mo. Nov., Dec., 1933.

Home Loans. The relief of home owners; a discussion of the federal home owners' loan act and of needed state legislation. *H. E. Ellenbogen.* Temple Law Quar. Nov. 1933.

Immigration. The alien problem today. *Harold Fields.* So. Atlan. Quar. July, 1933.

Judiciary, Jurisdiction. Diversity of citizenship jurisdiction of federal courts. *Charles E. Clark.* Am. Bar Assoc. Jour. Sept., 1933.

———. Revision of federal diversity jurisdiction. *George W. Ball.* Ill. Law Rev. Nov., 1933.

Labor Administration. Work of state labor offices in behalf of wage claimants. *Unsigned.* Monthly Labor Rev. Oct., 1933.

Legislation. Minnesota legislation, 1933. *Unsigned.* Minn. Law. Rev. Dec., 1933.

Liquor Control. Propaganda and the anti-prohibition movement. *H. E. Jensen.* So. Atlan. Quar. July, 1933.

———. Prohibition and the four million. *Lillian D. Wald.* Forum. Nov., 1933.

———. Construction and constitutionality of the beer act of March, 1933. *Unsigned.* Va. Law Rev. Nov., 1933.

———. Liquor control. *Sumposium.* State Govt. Nov., 1933.

———. Liquor control. *Symposium.* Minn. Municipalities. Dec., 1933.

Martial Law. Martial law for litigants. *Andrew Sledd.* No. Am. Rev. Nov., 1933.

———. Martial rule, in the light of Sterling v. Constantin. *Charles Fairman.* Cornell Law Quar. Dec., 1933.

Milk. Due process—regulation of the price of milk. *R. W. Purcell.* Cornell Law Quar. Dec., 1933.

———. Courts approve milk price fixing. *John Bauer.* Nat. Mun. Rev. Dec., 1933.

———. Constitutionality of regulation of milk prices. *R. Baron.* St. John's Law Rev. Dec., 1933.

Mortgage Moratoria. Mortgage foreclosure moratorium statutes. *D. P. K.* Mich. Law Rev., Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Validity of mortgage moratorium statutes. *F. G. W.* Va. Law. Rev. Dec., 1933.

———. Mortgage relief during the depression. *Unsigned.* Harvard Law Rev. Dec., 1933.

Motor Carrier Regulation. The regulation of motor transportation. *J. B. McCormick.* Calif. Law Rev. Nov., 1933.

Narcotics. Peddling of narcotic drugs. *H. J. Anslinger.* Jour. Crim. Law & Crim. Sept.–Oct., 1933.

National-State Relations. State advice on federal legislation. *Margaret W. Stewart.* Am. Bar. Assoc. Jour. Sept., 1933.

New Deal. The new nationalism. *P. M. Herbert.* Southwest Rev. Autumn, 1933.

———. The honeymoon of the new deal. *Unsigned.* Round Table. Sept., 1933.

———. The effort for national recovery. *H. M. Henry.* So. Atlan. Quar. Oct., 1933.

———. American trade unionism and the Roosevelt régime. *H. A. Marquand.* Pol. Quar. Oct.–Dec., 1933.

———. War on the brain trust. *E. K. Lindley.* Scribner's. Nov., 1933.

———. The supreme court and the new deal. *Mitchell Dawson.* Harper's. Nov., 1933.

———. Mr. Roosevelt faces a crisis. *R. G. Swing.* Fort. Rev. Nov., 1933.

———. The world looks at the new deal. *P. W. Wilson.* Rev. of Revs. Nov., 1933.

———. Labor in the new deal. *E. F. Brown.* Current Hist. Nov., 1933.

———. L'expérience Roosevelt, les codes et le dollar. *P. Martignan.* Rev. Pol. et Parl. Nov., 1933.

———. Revolt in the South. *Allen Raymond.* Roads around the constitution. *Herbert Corey.* The story congress will tell. *G. E. Sokolsky.* Price and prices. *R. R. Doane.* New Outlook. Nov., Dec., 1933.

———. Chaos or recovery? *I. Balogh.* History from the loom. *F. B. Austin.* Nine. Cent. Nov., Dec., 1933.

———. The public relations of plan. *Leon Whipple.* Survey. Dec. 1, 1933.

———. Economic consequences of the new deal. *W. T. Foster.* Atlan. Mo. Dec., 1933.

———. New deal or mis-deal? *Cognosco.* The new deal and the supreme court. *R. L. Strout.* Christ among the chiselers. *J. M. Nolte.* No. Am. Rev. Dec., 1933.

———. Nationalism and the south. *Claudius Murchison.* Va. Quar. Rev. Jan., 1934.

N.R.A. The constitution in equilibrium. *B. S. Dean.* Lawyer & Banker. Sept.–Dec., 1933.

———. Some constitutional aspects of the national industrial recovery act. *John G. Hervey.* Temple Law Quar. Nov., 1933.

———. Some legal aspects of the national industrial recovery act. *Unsigned.* Harvard Law Rev. Nov., 1933.

———. Retail trade regulations and their constitutionality. *Juliet Blumenfeld.* Calif. Law Rev. Nov., 1933.

———. The new order. *Hugh S. Johnson.* Primary economic objectives of the N.R.A. *Robert F. Wagner.* Am. Federationist. Nov., 1933.

———. They find it can be done. *E. N. Hurley.* Rev. of Revs. Nov., 1933.

———. Summary of permanent codes adopted. *Unsigned.* Monthly Labor Rev. Nov., 1933.

———. Business looks at the N.R.A. *R. E. Flanders.* Atlan. Mo. Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Title I of the national recovery act. *M. P. Sharp.* Chicago Law Rev. Nov., 1933.

———. Chaotic coal. *M. D. Vincent.* Forgotten consumers. *Frank A. Fetter.* Survey. Nov. 1, 1933.

———. Legal problems of the national recovery administration. *Donald Richberg.* Com. Law League Jour. Dec., 1933.

———. The national industrial recovery act and state anti-trust laws. *W. R. Brown.* Possible methods of attacking the N.I.R.A. *Stanley Thomas.* Ill. Law Rev. Dec., 1933.

———. The United States supreme court and the N.I.R.A. *Symposium.* Cong. Digest. Dec., 1933.

———. A new industrial partnership. *H. C. Metcalf.* No. Am. Rev. Dec., 1933.

———. The fallacies of the N.R.A. *Henry Hazlitt.* Am. Mercury. Dec., 1933.

———. Labor under the N.R.A. *R. W. Bruère.* Yale Rev. Winter, 1934.

Oil. Oil under Ickes. *Karl Pretshold.* No. Am. Rev. Dec., 1933.

Parties. For "them on the fence." *E. Pendleton Herring.* No. Am. Rev. Nov., 1933.

Philippines. Twilight in the Philippines. *Arthur Driscoll.* New Outlook. Dec., 1933.

Popular Control. The law and the social revolution. *A. A. Berle, Jr.* Survey. Dec. 1, 1933.

Practical Politics. A defeated politician. *J. T. Salter.* Dalhousie Rev. Oct., 1933.

———. The Chicago "black belt" as a political battleground. *H. F. Gosnell.* Am. Jour. Soc. Nov., 1933.

Presidency. The increasing power of the president. *Symposium.* Cong. Digest. Nov., 1933.

Primary. The negro and the Texas primary. *R. W. Hainsworth.* Jour. Negro Hist. Oct., 1933.

Public Utilities. Public utilities—valuation. *Stanley Buchsbaum.* N. Y. Univ. Law Rev. Sept., 1933.

———. Early Oregon public utility regulation, 1843–1899. *J. W. Joyce.* Commonwealth Rev. July–Nov., 1933.

———. The status of reproduction cost as a method of valuation for rate-making purposes. *J. K. Nevling.* Dickinson Law Rev. Oct., 1933.

———. Price fixing—emergency legislation. *M. S. Culp.* Mich. Law Rev. Nov., 1933.

———. Price fixing and the Liebmann case. *L. R. S.* Neb. Law Bull. Nov., 1933.

———. British and American utilities: a comparison. *Marshall E. Dimock.* Chicago Law Rev. Nov., 1933.

———. Fixation of minimum utility rates to prevent destructive competition. *Unsigned.* Yale Law Jour. Nov., 1933.

Public Works. Public works: a new industry. *D. C. Coyle.* Atlan. Mo. Dec., 1933.

Radio. State and federal regulation of radio broadcasting. *J. W. Wright.* George Washington Law Rev. Nov., 1933.

Railroads. État actuel du problème des chemins de fer aux États-Unis. *W. F. Notz.* Rev. Écon. Int. Oct., 1933.

———. Power of the interstate commerce commission to order extension of railroad lines. *P. F. Herrick.* George Washington Law Rev. Nov., 1933.

———. The railroad reorganization act. *Max Lowenthal.* Harvard Law Rev. Nov., 1933.

———. Consolidation of interstate railroads. *James Quarles.* Va. Law Rev. Dec., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Securities Control. The securities act of 1933. *Joseph P. Chamberlain.* Am. Bar Assoc. Jour. Sept., 1933.

———. Stock brokers as agents and dealers. *W. O. Douglas* and *G. E. Bates.* Yale Law Jour. Nov., 1933.

———. Criminal law aspects of the securities act of 1933. *W. B. Herlands.* U. S. Law Rev. Nov., 1933.

———. The issuance of securities under the English companies act. *S. Nielson.* Va. Law Rev. Nov., 1933.

———. Some effects of the securities act upon investment banking. *W. O. Douglas* and *G. E. Bates.* Chicago Law Rev. Nov., 1933.

———. The securities act of 1933. *John Hanna* and *Edgar Turlington.* Ill. Law Rev. Dec., 1933.

———. Disclosure of corporate affairs. *Unsigned.* Harvard Law Rev. Dec., 1933.

———. Uncertain securities. *G. E. Bates.* Forum. Dec., 1933.

State Constitutions. Proposed amendments to the Pennsylvania state constitution. *A. J. W. Hutton.* Dickinson Law Rev. Oct., 1933.

Supreme Court. The business of the supreme court at October term, 1932. *Felix Frankfurter* and *H. M. Hart, Jr.* Harvard Law Rev. Dec., 1933.

Tariff. The tariff and the south. *M. O. Phillips.* So. Atlan. Quar. Oct., 1933.

Taxation. Does the power to tax involve the power to destroy a lawful business? *A. J. Levin.* U. S. Law Rev. Sept., Oct., 1933.

———. The Illinois capital stock tax. *Barnet Hodes.* Tax delinquency: the Illinois tax receivership act. *E. H. De Long.* Ill. Law Rev., Nov., 1933.

———. The taxation of real estate: a survey of recent discussion. *K. M. Williamson.* Quar. Jour. Econ. Nov., 1933.

———. Federal taxation of private business of state educational institutions. *Paul Nielson.* Ia. Law Rev. Nov., 1933.

———. State taxation of interstate motor carriers. *P. G. Kauper.* Mich. Law Rev. Nov., 1933.

———. Power of a state to exempt a single railroad from taxation. *Unsigned.* Yale Law Jour. Nov., 1933.

———. Multiple taxation: the implication of Burnet v. Brooks. Federal taxation of state liquor monopolies. *Unsigned.* Harvard Law Rev. Nov., Dec., 1933.

———. Ebb tide in taxation: a depression aftermath. *G. L. Leffler.* Comparative tax rates for 284 cities. *C. E. Rightor.* Nat. Mun. Rev. Nov., Dec., 1933.

———. The constitutionality of the federal estate tax. *C. L. B. Lowndes.* Va. Law Rev. Dec., 1933.

Trade Practices. Unfair competition. *B. R. Rappaport.* St. John's Law Rev. Dec., 1933.

Unemployment. The president's reëmployment program. *Unsigned.* Am. Bar Assoc. Jour. Sept., 1933.

———. Today's bread; tomorrow's shelter. *J. R. Ellingston.* New Outlook. Nov., 1933.

———. What hope for the jobless? *Stuart Chase.* Current Hist. Nov., 1933.

———. The results of relief. *Elwood Street.* The care of the aged. *L. I. Dublin.* Forum. Dec., 1933.

Veterans. Embattled veterans. *Roger Burlingame.* Atlan. Mo. Nov., Dec., 1933.

———. The third round: the veterans vs. U. S. *C. M. Mills.* New Outlook. Dec., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Addison, Christopher, and *Others*. Problems of a socialist government. Pp. 288. London: Gollancz.

Anon. Germany: twilight or new dawn? Pp. 226. N. Y.: McGraw-Hill.

Banerjii, Sir Albion R. The Indian tangle. Pp. 287. London: Hutchinson.

Bartlett, Vernon. Nazi Germany explained. Pp. 288. London: Gollancz.

Belloc, Hilaire. The postmaster-general. Pp. 286. London: Arrowsmith.

Blackham, Robert J. The crown and the kingdom: England's royal family. Pp. 290. London: Low.

Brady, R. A. The rationalization movement in German industry. Pp. 487. Berkeley, Calif.: Univ. of Calif. Press.

Catiforis. La crise de la monnaie anglaise. Pp. 202. Paris: Sirey.

Chilcott, Sir Warden. Political salvation. Pp. 159. London: Benn.

Chitambar, J. R. Mahatma Gandhi; his life, work, and influence. Pp. 283. Phila: Winston.

Churchill, Winston S. Thoughts and adventures. Pp. 320. London: T. Butterworth.

Clark, Colin. The control of investment. London: Gollancz.

Colbourne, Maurice. Economic nationalism. Pp. 284. London: Figurehead.

Cole, G. D. H., ed. What everybody wants to know about money. Pp. 544. London: Gollancz.

Dasgupta, S. Indian idealism. Pp. 232. London: Cambridge Univ. Press.

Dawson, Robert M. Constitutional issues in Canada, 1900–31. London: Oxford Univ. Press.

De Monzie, A. New Russia. Pp. 374. N. Y.: Peter Smith.

Dimock, Marshall E. British public utilities and national development. Pp. 349. London: Allen & Unwin.

Douglas, C. H. Social credit. Pp. 223. N. Y.: Norton.

Eldridge, F. R. Dangerous thoughts on the orient. Pp. 240. N. Y.: Appleton-Century.

Faralicq, R. The French police from within. Pp. 301. London: Cassell.

Fenn, Louis A. The project of a planned world. Pp. 72. London: Williams & Norgate.

Florinsky, M. T. World revolution and the U.S.S.R. London: Macmillan.

Fox, Ralph. Lenin: a biography. Pp. 320. London: Gollancz.

Franks, H. G. Queer India. Pp. 252. N. Y.: Morrow.

Gobron, G. La Hongrie mystérieuse. Pp. 312. Paris: Rivière.

Graham, F. D. Protective tariffs. N. Y.: Harper.

Green, William R. The theory and practice of modern taxation. Pp. 273. Chicago: Commerce Clearing House.

Handelsman, Marcel. La Pologne; sa vie économique et sociale pendant la guerre. Pp. 627. New Haven (Ct.): Yale Univ. Press.

Hankin, F., and *MacDermot, T. W. L.* Recovery by control. Toronto: Dent.

Hermens, F. A. Demokratie und Wahlrecht. Pp. 186. Paderborn: Schöningh.

Hindus, Maurice G. The great offensive. Pp. 368. N. Y.: Smith & Haas.

Hirst, W. A. Real self-government for India. Pp. 31. London: Watts.

Hitler, Adolf. My battle. Pp. 307. Boston: Houghton, Mifflin.

Holt, L. W. The New Zealand budgetary problem. London: Oxford Univ. Press.

Jacob, C. P. G. Economic salvation; unemployment, taxation, debt: the cause and a remedy. Pp. 142. London: T. Butterworth.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Jeffs, Harry. Press, preachers, and politicians: reminiscences, 1874–1932. Pp. 251. London: Independent Press.

Jusserand, J. J. What me befell. Pp. 346. Boston: Houghton, Mifflin.

Kinderman, Karl. In the coils of the O.G.P.U. Pp. 288. London: Hurst & Blackett.

Kramer, F. A. Das rote imperium. Pp. 213. Munich: Kostel & Pustet.

Lautman, Jules. Les aspects nouveaux du protectionnisme. Pp. 187. Paris: Rivière.

Manuel. L'union européenne. Pp. 289. Paris: Recueil Sirey.

Marvin. F. S. India and the west. London: Longmans.

Mola, Emilio. Tempestad, calma, intriga y crisis. El derrumbamiento de la monarquia. Madrid: Bergua.

de Montfort, H. Les nouveaux états de la baltique. Pp. 320. Paris: Pedone.

Morley, Felix, ed. The economic world today. Chicago: Univ. of Chicago Press.

Muir, Ramsay. The faith of a liberal. Pp. 32. London: Dickson.

Nenni, Pietro. Ten years of tyranny in Italy. Pp. 218. N. Y.: Peter Smith.

Nikolaus, G. Die Milizfrage in Deutschland von 1848 bis 1933. Pp. 196. Berlin: Kunker & Dünnhaupt.

Pannikar, E. M. Caste and democracy. Pp. 39. London: Hogarth.

Pascazio, N. La rivoluzione di Spagna. Pp. 478. Rome: Nuova Europa.

Patrick, Mark. Hammer and sickle. Pp. 243. London: Elkin Mathews.

Pitigliani, Fausto. The Italian corporative state. Pp. 293. London: King.

Puxley, H. L. A critique of the gold standard. Pp. 272. London: Allen & Unwin.

Rees, J. F. A survey of economic development: with special reference to Great Britain. Pp. 366. London: Pitman.

Respondek, E. Grundzüge europäischer Handelspolitik zwischen den beiden Weltwirtschaftskonferenzen. Pp. 207. Berlin: Heymann.

Rogers, H. Native administration in the Union of South Africa. Pp. 388. London: Kegan Paul.

Sanders, E. M. The world and the British empire. Pp. 96. London: Collins.

Segal, Louis. Modern Russia. Pp. 169. London: Indus. Credits.

Siegfried, André. England's crisis. Pp. 296. London: Collins.

Singh, G. N. Landmarks in Indian constitutional and national development. Pp. 741. Benares: Indian Bookshop.

Summary of the fulfillment of the first five year plan for the development of the national economy of the U.S.S.R. Pp. 306. N. Y.: Amkniga.

Tannenbaum, Frank. Peace by revolution: an interpretation of Mexico. Pp. 316. N. Y.: Columbia Univ. Press.

Tilley, Sir John, and *Gaselee, Stephen.* The foreign office. Pp. 349. N. Y.: Putnam.

Tiltman, H. H. The terror in Europe. Pp. 414. London: Jarrolds.

Townsend, Ralph. Ways that are dark. N. Y.: Putnam.

Trotsky, Leon. What Hitler wants. Pp. 31. N. Y.: John Day.

Vivian, Herbert. Kings in waiting. Pp. 304. London: Hamilton.

Wheare, K. C. The statute of Westminster, 1931. Pp. 136. London: Oxford Univ. Press.

Wicksteed, Alexander. Ten years in soviet Moscow. Pp. 196. London: Lane.

Willson, B. Canada. Pp. 305. London: Nelson.

Woodhead, H. G. W. China yearbook, 1933. Pp. 787. Chicago: Univ. of Chicago Press.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

World Committee for Victims of German Fascism. The brown book of the Hitler terror. Pp. 352. London: Gollancz.

Wyndham, H. A. Problems of imperial trusteeship. Pp. 273. N. Y.: Oxford.

Young, Sir George. The new Spain. Pp. 221. London: Methuen.

Zurcher, A. J. The experiment with democracy in Central Europe. London: Oxford Univ. Press.

Articles

Administration. La place qu'occupe la documentation dans les administrations publiques. *P. Noordenbos.* Le bilen des états. *M. Soquet.* Rev. Int. des Sciences Admin. Jan.–Mar., Apr.–June, July–Sept., 1933.

Andorra. Andorra: Europe's last feudal state. *L. A. Fernsworth.* For. Affairs. Jan., 1934.

———. Verfassungsgeschichte von Andorra. *W. Anderssen.* Zeitschrift vergleichende Rechtswissenschaft. Vol. 48, no. 1–2.

Asia Minor. La politique du rail en Asie antérieure. *B. Nikitine.* Rev. Écon. Int. Sept., 1933.

———. The development of the states of the Levant. *C. Fidel.* Asiatic Rev. Oct., 1933.

———. Iraq under a new king. *R. L. Baker.* Current Hist. Nov., 1933.

Australia. Australia's recovery. *H. C. Jones.* Fort. Rev. Nov., 1933.

Austria. Can Austria survive? *C. F. Melville.* Fort. Rev. Nov., 1933.

———. Austria today. *J. O. P. Bland.* Eng. Rev. Nov., 1933.

———. Austria and the Nazi movement. *H. Simon.* Nine. Cent. Nov., Dec., 1933.

———. Dolfuss and the future of Austria. *John Gunther.* For. Affairs. Jan., 1934.

Balkans. The king business in the Balkans. *Louis Adamic.* Yale Rev. Winter, 1934.

British Empire. Supremacy of commonwealth law under the constitution. *W. A. Wynes.* Australian Law Jour. Sept., Oct., 1933.

———. Links in the imperial chain. *M. de P. Webb.* Asiatic Rev. Oct., 1933.

———. Britain regains confidence. *J. B. Brebner.* Current Hist. Nov., 1933.

———. Ninety years of empire. *W. A. Hirst.* Empire Rev. Nov., 1933.

Canada. Provincial taxation as based on judicial incomes. *G. E. Taylor.* Constitutional aspect of insurance legislation. *A. C. Heighington.* Canadian Bar Rev. Sept., 1933.

———. Canada: public administration. *Unsigned.* Round Table. Sept., 1933.

———. Canada's divided loyalty. *Duncan McArthur.* Current Hist. Nov., 1933.

———. Liquor control in Canada. *William Phillips.* Forum. Dec., 1933.

China. How the national government in Nanking works. *Yen-ying Lu.* Chinese Soc. and Pol. Sci. Rev. Oct., 1933.

———. The China shadow play. *W. Nunn.* Asiatic Rev. Oct., 1933.

———. The ideals of the Chinese republic. *Chih Meng.* Open Court. Oct.–Nov., 1933.

Colonies. La responsibilité civile de la colonie. *L. Petillon.* Rev. Int. des Sciences Admin. Apr.–June, 1933.

———. Trends in colonial policy. *J. Coatman.* Asiatic Rev. Oct., 1933.

Comparative Government. Recent developments in laws, constitutions, and administration. *B. Mirkine-Guetzévitch.* Pol. Quar. Oct.–Dec., 1933.

Cuba. Young Cuba rises. *Carleton Beals.* Scribner's. Nov., 1933.

———. Can Cuba save herself? *H. Herring.* Current Hist. Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Fiscal Affairs. Vers l'equilibre budgétaire en Belgique et en Suisse. *E. P.* Jour. Économistes. Oct., 1933.

———. Le régime fiscal du tabac dans les divers pays. *M. Israel.* Les conditions de l'assainissement budgétaire. *J. F. Compeyrot.* Sous le signe fiscal. *M. Polti.* Rev. Pol. et Parl. Oct., 1933.

France. L'arbitrage en matière commerciale et la jurisprudence de la cour de cassation. *J. P. Palewski.* Jour. Droit Int. July–Oct., 1933.

———. La réglementation du transport en commun des vovageurs par route au Maroc français. *A. E. Sayous.* Rev. Écon. Int. Sept., 1933.

———. French budget difficulties. *Gilbert Chinard.* Current Hist. Nov., 1933.

———. Neues französisches Arbeitsrecht. *F. Mestitz.* Zeitschrift vergleichende Rechtswissenschaft. Vol. 48, no. 1–2.

Germany. La nouvelle structure de la vie économique en Allemagne. *Jens Jessen.* Rev. Écon. Int. Sept., 1933.

———. The catholic church in Hitler Germany. *John B. Mason.* Ecclesiastical Rev. Oct., 1933.

———. The Jews in the third reich. *Mildred S. Wertheimer.* For. Policy Rep. Oct. 11, 1933.

———. In Germany today. *Lord Noel-Buxton.* Karl Barth and Hitlerism. *R. M. Adamson.* The Nazis and the Jews. *R. Bernays.* The growth and decay of the Weimar constitution. *O. Kircheimer.* Contemp. Rev. Oct., Nov., 1933.

———. The decay of German democracy. *Franz Neumann.* The reichstag fire: or an experiment in psychological autarchy. *Kingsley Martin.* Pol. Quar. Oct.–Dec., 1933.

———. The brown book and its moral. *Centurion.* Nat. Rev. Nov., 1933.

———. The little man's fate in Germany. *L. Lore.* The reichstag fire mystery. *Sidney B. Fay.* Current Hist. Nov., 1933.

———. Germany's concentration camps. *W. Arnold-Forster.* The real Germany. *H. P. Löwenstein.* Nine. Cent. Nov., Dec., 1933.

———. New Germany speaks. *Symposium.* Living Age. Dec., 1933.

———. Germany on the march. *Helen Hill.* Va. Quar. Rev. Jan., 1934.

———. Hitler's national socialism. *Leon Trotsky.* Yale Rev. Winter, 1933.

Great Britain. Coöperators and the state. *C. R. Fay.* Econ. Jour. Sept., 1933.

———. Great Britain: the government's record. *Unsigned.* Round Table. Sept., 1933.

———. The future of the English political parties. *Douglas Jerrold.* House of lords reform. *Victor Raikes.* Parliamentary lotteries. *Thomas Levy.* Eng. Rev. Oct., Nov., 1933.

———. Democracy and dictatorship: the issue for the labour party. *Sir Stafford Cripps.* Pol. Quar. Oct.–Dec., 1933.

———. The new farm policy in operation. *C. S. Orwin.* Fort. Rev. Nov., 1933.

———. The fascist idea in Britain. *W. E. D. Allen.* Quar. Rev. Nov., 1933.

———. The dearth of British leadership. *Wickham Steed.* Current Hist. Nov., 1933.

———. Parties in conference. *A. Hopkinson.* Tshekedi—and after. *L. Barnes.* The labour party from within. *A. L. Rowse.* House of lords reform. *C. Morrison-Bell.* Need for a judicature commission. *T. Mathew.* Nine. Cent. Nov., Dec., 1933.

Greece. L'organisation de la statistique en Grèce. *J. Michalopoulos.* Rev. Int. des Sciences Admin. Jan.–Mar., 1933.

India. India: Mr. Gandhi again. *Unsigned.* Round Table. Sept., 1933.

———. The white paper: a middle view. *Lord Meston.* The landed classes and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the new constitution. *R. S. M. Mehdi.* India "1983." *Malcolm Hailey.* Indian muslems and the reforms. *M. Yokub.* Asiatic Rev. Oct., 1933.

———. Ram Mohan Roy: the father and founder of modern India. *S. S. Singha.* The financial aspects of the white paper. *Sir A. Cardew.* Contemp. Rev. Oct., Nov., 1933.

———. British sea power and Indian home rule. *Custos.* Nat. Rev. Nov., 1933.

Ireland. Blue-shirts and the I.R.A. *Unsigned.* Quar. Rev. Nov., 1933.

———. Ireland since the treaty. *Stephen Gwynn.* For. Affairs. Jan., 1934.

Italy. Fascism in the making. *Max Ascoli.* Atlan. Mo. Nov., 1933.

———. Lo stato corporativo pensiero di Mussolini. *B. Biagi.* Nuova Antologia. Nov. 16, 1933.

Japan. Price standardization in government control of rice. *S. Kawata.* Tax exemptions in Japan. *K. Oyamada.* Jour. Osaka Univ. of Commerce. Sept., 1933.

———. Japan's population problem. *Hugh Byas.* Asiatic Rev. Oct., 1933.

Mexico. The state of the Mexican nation. *C. W. Hackett.* Current Hist. Nov., 1933.

Monetary Policies. Gold and the end of the depression. *Charles Rist.* For. Affairs. Jan., 1934.

Poland. L'organisation de la statistique en Pologne. *Szturn de Sztrem.* Rev. Int. des Sciences Admin. July–Sept., 1933.

———. Les banques d'état en Pologne en 1932. *G. de K.* Jour. Économistes. Oct., 1933.

Russia. Soviet economic development since 1928. *P. Winterton.* Econ. Jour. Sept., 1933.

———. Applied Marxism in soviet Russia. *G. Tuckerman.* Am. Econ. Rev. Dec., 1933.

———. Stalin's policy wins. *E. S. Furniss.* Current Hist. Nov., 1933.

———. Das problem des Unterhalts geschiedener russischer Staatsangehöriger. *R. Maurach.* Zeitschrift vergleichende Rechtswissenschaft. Vol. 48, no. 1–2.

———. The Russian continent. *E. M. Kayden.* Va. Quar. Rev. Jan., 1934.

Spain. La estadistica general de España. *H. de Castro.* Rev. Int. des Sciences Admin. Apr.–June, 1933.

———. The Spanish constitution of 1931. N. Y. Univ. Law Rev. Sept., 1933.

———. Spain turns right. *W. E. Lingelbach.* Current Hist. Nov., 1933.

———. The crisis in Spain. *Marquis del Moral.* Eng. Rev. Nov., 1933.

———. Granada. *H. M. Tomlinson.* Yale Rev. Winter, 1934.

Sweden. L'organization de l'administration civile en Suède. *N. A. Lindhult.* Rev. Int. des Sciences Admin. July–Sept., 1933.

———. Sweden: where capitalism is controlled. *M. W. Childs.* Drinking in Sweden. *A. O. Overbeck.* Harper's. Nov., Dec., 1933.

Switzerland. L'organisation de l'administration et des entreprises publiques en Suisse. *O. Leimgruber.* Rev. Int. des Sciences Admin. Jan.–Mar., 1933.

Turkey. Turkey of today. *V. B. Metta.* Empire Rev. Oct., 1933.

INTERNATIONAL RELATIONS

Books

Allen, E. W. The position of foreign states before national courts; chiefly in continental Europe. N. Y.: Macmillan.

Anon. Patriotism ltd.; an exposure of the war machine. Pp. 64. London: Union of Democratic Control.

Armaments yearbook. Pp. 474. Boston: World Peace Found.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Asbeck, Hans. Das ultimatum im modernen Völkerrecht. Pp. 88. Berlin: Rothschild.

Augur. The "Polish corridor": the facts. Pp. 32. London: Privately printed.

Blanc-Dannery, V. S. La convention de Varsovie et les règles du transport aérien international. Pp. 112. Paris: Pedone.

Brehm, Bruno. They call it patriotism. Pp. 373. London: Bles.

British yearbook of international law, 1933. Pp. 268. N. Y.: Oxford.

Brockway, F. The bloody traffic. Pp. 288. London: Gollancz.

Buell, R. L. The world adrift. Pp. 38. Boston: World Peace Found.

Cases-Carbó, J. El problema peninsula. Barcelona: Librería Catalónia.

Chang, Yi-Ting. The interpretation of treaties by judicial tribunals. Pp. 196. N. Y.: Columbia Univ. Press.

Chilvers, H. A. The yellow man looks on. Pp. 254. London: Cassell.

Chitale, S. D. The world crisis and the problem of peace. Pp. 230. Poona: Int. Book Service.

Clark, Thomas D. The beginning of the League of Nations. Pp. 107. Louisville: Standard Printing Co.

Cole, G. D. H., and *Cole, Margaret.* The intelligent man's review of Europe today. Pp. 864. London: Gollancz.

Crowther, Samuel. America self contained. Pp. 340. N. Y.: Doubleday.

Desbons, G. Les enemis de la paix: la Hongrie après le traité de Trianon. Pp. 210. Paris: Rivière.

Dumba, Constantin. Memoirs of a diplomat. Pp. 347. London: Allen & Unwin.

Eibl., Hans. Vom Sinn der Gegenwart. Pp. 423. Vienna: Braumüller.

Feller, A. H., and *Hudson, Manley O.,* eds. A collection of the diplomatic and consular laws and regulations of various countries. 2 vols. Wash.: Carnegie Endowment.

Ferrero, Guglielmo. Peace and war. Pp. 254. N. Y.: Macmillan.

Gibberd, Kathleen. The league in our time. Pp. 262. London: Blackwell.

Gooch, G. P., ed. In pursuit of peace. Pp. 145. London: Methuen.

Graham, Malbone W. The league of nations and the recognition of states. Pp. 79. Berkeley: Univ. of Calif. Press.

Graves, Sir Robert W. Storm centers in the near east: personal recollections, 1879–1929. Pp. 375. London: Hutchinson.

Hagemann, Walter. Die Revision marschiert. Pp. 67. Berlin: Heymann.

Hart, Heber L. The bulwarks of peace and international justice. Rev. ed. Pp. 266. London: Methuen.

Hill, Roscoe R. Fiscal intervention in Nicaragua. Pp. 124. Wash.: Author.

Howard of Penrith, Lord. The prevention of war by collective action. Pp. 23. London: Burns, Oates & Washbourne.

Huddleston, Sisley. War unless—? Pp. 288. London, Gollancz.

Jaffe, Louis L. Judicial aspects of foreign relations, in particular of the recognition of foreign powers. Pp. 289. Cambridge, Mass.: Harvard Univ. Press.

Kosaroff, T. S. La dette publique extérieure en Bulgarie. Pp. 338. Paris: Recueil Sirey.

Lape, Esther E., and *Read, Elizabeth F.* The United States and the soviet union. Pp. 279. N. Y.: Am. Foundation.

Michael, Franz. Der Streit um die Mandschurei. Pp. 101. Leipsig: Universitäts-Verlag.

Mitrany, David. The progress of international government. Pp. 176. London: Allen & Unwin.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Moore, John Bassett, ed. International adjudications; modern series. Vol. 6. Pp. 442. N. Y.: Oxford.

O'Conroy, T. The menace of Japan. Pp. 294. London: Hurst & Blackett.

Peace and order in "Manchukuo?" Pp. 33. Nanking: Ministry of For. Affairs.

Raglan, Lord. The science of peace. Pp. 165. London: Methuen.

Ray, J. La politique et la jurisprudence de la société des nations du début de 1932 au début de 1933. Pp. 102. Paris: Recueil Sirey.

Remer, C. F., and *Palmer, W. B.* A study of Chinese boycotts with special reference to their economic effectiveness. Pp. 318. Baltimore: Johns Hopkins Press.

Reynosco, Francisco de. Reminiscences of a Spanish diplomat. Pp. 287. London: Hutchinson.

Riddell, Lord. Intimate diary of the peace conference and after. Pp. 447. London: Gollancz.

Ryan, John Kenneth. Modern war and basic ethics. Pp. 111. Wash.: Catholic Univ. of Am.

Schlosser, G. Les actes diplomatiques considerées comme actes du gouvernement. Paris: Domat Montchretien.

Simonds, Frank H. America faces the next war. Pp. 100. N. Y.: Harper.

Snow, Edgar. Far eastern front. Pp. 351. N. Y.: Smith & Haas.

Stimson, Ralph H. The war system: two addresses. Pp. 35. Burlington, Vt.: Author.

Tippetts, Charles S. Autarchy: national self-sufficiency. Pp. 29. Chicago: Univ. of Chicago Press.

Tobin, Harold J. The termination of multipartite treaties. Pp. 321. N. Y.: Columbia Univ. Press.

Turnbull, M. M. European relations. Pp. 118. London: Hodge.

What would be the character of a new war? Pp. 432. N. Y.: Smith & Haas.

Williams, Sir John Fisher, and *Lauterpacht, H.* Annual digest of public international law cases, 1923–24. London: Longmans.

Winkler, Max. Foreign bonds; an autopsy. Pp. 311. Phila.: Roland Swain Co.

Woolf, Leonard, ed. The intelligent man's way to prevent war. Pp. 576. London: Gollancz.

Wright, Quincy, ed. Public opinion and world politics: lectures on the Harris Foundation, 1933. Pp. 249. Chicago: Univ. of Chicago Press.

Zimmerman, E. W. World resources and industries. Pp. 842. N. Y.: Harper.

Articles

Adjudication. La théorie de l'institution et les tribunaux arbitraux mixtes. *P. de Solère.* La clause Calvo: tendances nouvelles. *L. Summers.* Rev. Droit Int. July–Sept., 1933.

———. Un arbitrage égypto-americain sur les réclamations faites par le gouvernement des États-Unis en raison de la prétendue violation des droits d'un de ses sujets. *P. Arminjon.* Jour. Droit Int. July–Oct., 1933.

———. The permanent court of international justice. *N. W. Rowell.* Canadian Bar Rev. Sept., 1933.

———. Critique du soi-disant domaine de "competence exclusive." *Georges Scelles.* L'épuisement des voies de recours internes comme condition préalable de l'instance internationale. *C. G. Tenekides.* Rev. Droit Int. et Légis. Comp. No. 3, 1933.

———. The Panama-United States claims commission. *George A. Finch.* Am. Jour. Int. Law. Oct., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Air. Pan American air regulation: a comparative study. *L. Hyzer.* Jour. Air Law. Oct., 1933.

American Foreign Relations. America's way with the league. *A. B. Darling.* Current Hist. Nov., 1933.

———. Our impromptu diplomacy. *G. E. Sokolsky.* Atlan. Mo. Dec., 1933.

Balkans. The Balkans in the world crisis. *Mable S. Ingalls.* For. Policy Rep. Dec. 6, 1933.

British Foreign Relations. The world against Britannia. *H. H. Hutcheson.* So. Atlan. Quar. July, 1933.

———. Labour's foreign policy. *Leonard Woolf.* Pol. Quar. Oct.–Dec., 1933.

———. Britain and the Baltic States. *A. C. Bossom.* Nat. Rev. Nov., 1933.

———. Anglo-Japanese relations. "*R.*" Eng. Rev. Nov., 1933.

Diplomatic Representation. Consoli et agenti diplomatici; immunità in materia penale. *T. Perassi.* Riv. Diritto Int. No. 2–3, 1933.

Disarmament. The disarmament crisis—1933. *W. S. Stone.* For. Policy. Rep. Oct. 25, 1933.

———. Some aspects of disarmament. *Unsigned.* Quar. Rev. Nov., 1933.

———. Disarmament: a new phase. *Allan Nevins.* Current Hist. Nov., 1933.

———. Hoover and Macdonald on a log. *Drew Pearson.* Harper's. Dec., 1933.

———. Germany and the crisis in disarmament. *Allen W. Dulles.* For. Affairs. Jan., 1934.

Economic Nationalism. The new isolation. *John Bassett Moore.* Am. Jour. Int. Law. Oct., 1933.

———. Economic nationalism and international relations. *J. Coatman.* Pol. Quar. Oct.–Dec., 1933.

Europe. De Danzig à Leschen. *C. Le Guillou.* Rev. Sci. Pol. July–Sept., 1933.

———: Die Entmilitarisierung der Rheinlande und die Schuldthese. *E. Gottschalk.* Berliner Monatshefte. Sept., 1933.

———. Hitler defies France. *H. R. Knickerbocker.* Southwest Rev. Autumn, 1933.

———. La reconstitution de l'europe danubienne. *K. de Buday.* L'Esprit Int. Oct., 1933.

———. Projets de rapprochement entre la Belgique et les Pays-Bas. *J. F. H. Kohl.* Rev. Écon. Int. Oct., 1933.

———. Danzig. *Y. M. Goblet.* Rev. Pol. et Parl. Oct., 1933.

———. History from the loom. *F. B. Austin.* Nine. Cent. Nov., 1933.

———. Consolidating the little entente. *Frederic A. Ogg.* Current Hist. Nov., 1933.

Germany. Les répercussions internationales du hitlérisme. *H. Lichtenberger.* L'Esprit Int. Oct., 1933.

Gibraltar. Le tunnel de Gibraltar. *P. Bourgoin.* Rev. Pol. et Parl. Oct., 1933.

Inter-American Relations. L'equilibre des continents. *M. Cornéjo.* La doctrine de Monroe. *John B. Whitton.* Rev. Droit Int. July–Sept., 1933.

———. The evolution of international American conferences. *W. Manger.* Bull. Pan. Am. Union. Oct., 1933.

———. A new American expansion. *R. B. Ransom.* Southwest Rev. Autumn, 1933.

———. The Montevideo conference and the Latin American policy of the United States. *R. L. Buell.* For. Policy Rep. Nov. 22, 1933.

———. The Americas meet in Montevideo. *I. Phayre.* Nat. Rev. Dec., 1933.

———. Puerto Rico: our link with Latin America. *Theodore Roosevelt.* Latin

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

America, the league, and the United States. *Stephen P. Duggan.* For. Affairs. Jan., 1934.

International Labor Office. The international labour office in India. *P. P. Pillai.* Asiatic Rev. Oct., 1933.

International Law. Les affaires de communication devant la cour permanente de justice internationale. *J. Hostie.* L'ile de Chypre dans le droit international. *M. Dendias.* Rev. Droit Int. July–Sept., 1933.

———. Evolution de la question des détroits: Bosphore et Dardanelles. *M. Roche.* La liberté des mers. *P. Coppinger.* Rev. Sci. Pol. July–Sept., 1933.

———. The law of nations, static and dynamic. *J. L. Kunz.* American participation in belligerent commercial controls, 1914–1917. *Ethel C. Phillips.* The English practice with regard to reprisals by private persons. *Grover Clark.* War and neutrality. *George Grafton Wilson.* The case concerning the legal status of eastern Greenland. *Charles Cheney Hyde.* Civil jurisdiction over ships in innocent passage. *Philip C. Jessup.* Am. Jour. Int. Law. Oct., 1933.

———. International law in practice. *Sir William Malkin.* Law Quar. Rev. Oct., 1933.

———. Contribution a l'étude des sources du droit international. *Charles de Visscher.* Considérations sur les fondements du droit des gens. *Robert Redslob.* Rev. Droit Int. et Légis. Comp. No. 3, 1933.

———. Die volkerrechtliche Ausbildung der Juristen. *W. Schwister.* Zeitschrift Völkerrecht. No. 2, 1933.

International Order. Emprise de l'ordre internationale sur l'ordre étatique. *R. Redslob.* Rev. Int. Théorie du Droit. No. 3–4, 1933.

International Trade and Finance. Du rôle de la nature des crédits extérieurs dans les stabilisations monétaires européennes. *M. Mitzakis.* Rev. Droit Int. July–Sept., 1933.

———. A policy for the pound. An Australian view of the world conference. *Unsigned.* Round Table. Sept., 1933.

———. La conférence économique mondiale. *Francis W. Hirst.* L'Esprit Int. Oct., 1933.

———. Sweden and British trade. *P. Dawson.* International wheat conference. *Observer.* Empire Rev. Oct., 1933.

———. Private investments and international politics in the Saar, 1919–20. *Eugene Staley.* Jour. Pol. Econ. Oct., 1933.

———. Les dettes intergouvernmentales et la politique des États-Unis. *L. Delanney.* La notion de l'imprévision dans les règlements financiers internationaux. *M. Palmade.* Rev. Pol. et Parl. Oct., Nov., 1933.

———. War debts. *H. D. Gideonse* and *Irving Brant.* Int. Concil. Nov., 1933.

———. Aftermath of the Kreuger crash. *Sidney Hertzberg.* Current Hist. Nov., 1933.

———. The work of the London economic conference. *M. S. Stewart.* For. Policy Rep. Nov. 8, 1933.

———. Provisions for minerals in international agreements. *William P. Rawles.* Pol. Sci. Quar. Dec., 1933.

———. The future of world trade. *Walter Lippmann, Henry A. Wallace,* and *G. D. H. Cole.* Russia and world trade. *W. O. Scroggs.* For. Affairs. Jan., 1934.

International Unions. Membership in the universal postal union. *Benjamin Akzin.* Am. Jour. Int. Law. Oct., 1933.

———. Les conferences internationales de Madrid et de Lucerne. *J. Cazals de Fabel.* Rev. Pol. et Parl. Oct., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Newspaper copyright and the international copyright union. *H. D. Williams.* Tulane Law Rev. Dec., 1933.

Japan. Japan's foreign policy. *H. St. Clair Smallwood.* Asiatic Rev. Oct., 1933.

———. Anglophobia in Japan. *H. V. Redman.* Quar. Rev. Nov., 1933.

———. Japan's growing war frenzy. *Tyler Dennett.* Current Hist. Nov., 1933.

League of Nations. La s.d.n. et le problème fondamental de l'organisation internationale. *A. Jascenko.* Rev. Droit Int. July–Sept., 1933.

———. Japan and the league system. *M. Garnett.* Contemp. Rev. Oct., 1933.

———. Der Artikel 19 der Völkerbundssatzung. *W. Schoenborn.* Berliner Monatshefte. Oct., 1933.

———. Geneva and Nanking. *J. O. P. Bland.* Nat. Rev. Nov., 1933.

———. L'opinion britannique devant les troubles du continent et la s.d.n. *Y. M. Goblet.* Rev. Pol. et Parl. Nov., 1933.

———. The problem of permanent representation at the league of nations. *Harold Tobin.* Pol. Sci. Quar. Dec., 1933.

Manufacture of Arms. How the arms-makers work. *Vita* and *Joseph Friend.* Forum. Nov., 1933.

———. Armament manufacture and trade. *Constance Drexel.* Int. Conciliation. Dec., 1933.

———. Europe's greatest racket. *J. Gallier-Boissière* and *René Lefebvre.* Living Age. Dec., 1933.

Nationality. The nationality of corporations. *R. E. L. Vaughan* and *Others.* Law Quar. Rev. July, 1933.

———. La protection des nationaux à l'étranger et le changement de la nationalité d'origine. *E. M. Borchard.* Rev. Droit Int. et Légis. Comp. No. 3, 1933.

Outlawry of War. A propos des conventions signées à Londres le 3 juillet 1933. *M. Sibert.* L'interprétation du pacte Briand-Kellogg. *A. Mandelstam.* Rev. Gén. Droit Int. Pub. Sept.–Oct., 1933.

———. The fifth biennial conference of the institute of pacific relations. *Elizabeth Green.* Pacific Affairs. Oct., 1933.

———. La définition de l'agresseur. *Yves de la Bruière.* L'Esprit Int. Oct., 1933.

———. A pact of non-aggression. *George A. Finch.* Banff meeting of the institute of Pacific relations. *Philip C. Jessup.* Am. Jour. Int. Law. Oct., 1933.

Recognition. The case of Salimoff & Co. *E. D. Dickinson.* Am. Jour. Int. Law. Oct., 1933.

———. The legal effects of non-recognition of Russia. *M. A. Kallis.* Va. Law Rev. Nov., 1933.

———. De facto governments—the significance of their acts in our courts. *M. Milstein.* St. John's Law Rev. Dec., 1933.

———. De facto government—soviet confiscation of property. *Herbert Blau.* Cornell Law Quar. Dec., 1933.

Russia. The bases of soviet foreign policy. *Karl Radek.* For. Affairs. Jan., 1934.

Sino-Japanese Relations. Japan in Manchukuo. *H. J. Temperley.* For. Affairs. Jan., 1933.

———. Die völkerrechtlichen Hauptprobleme des Mandschureikonflikts. *E. Gottschalk.* Zeitschrift Völkerrecht. No. 2, 1933.

Treaties. La révision des traités. *Edouard Bénès.* Rev. Droit Int. July–Sept., 1933.

———. Negotiating reciprocity treaties. *Philip C. Jessup.* Am. Jour. Int. Law. Oct., 1933.

———. La clause de la nation la plus favorisée et la crise économique. *S. de Meerus.* Rev. Écon. Int. Oct., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Legal effect of an act of congress upon a prior treaty. *Mary S. Gulick.* George Washington Law Rev. Nov., 1933.

War and Peace. Ce que serait la guerre. *Anon.* L'Esprit Int. Oct., 1933.

———. The churches and world peace. *A. E. Garvie.* Contemp. Rev. Oct., 1933.

———. The drift towards war. *Wickham Steed.* Fort. Rev. Nov., 1933.

———. Slay on, slay ever. *Sir John Fortescue.* Cornhill Mag. Nov., 1933.

———. Ferrero on war. *Unsigned.* Quar. Rev. Nov., 1933.

———. Studies of world war propaganda, 1914–33. *R. H. Lutz.* Jour. Mod. Hist. Dec., 1933.

———. France, Germany, America. *Albert Guérard.* Va. Quar. Rev. Jan., 1934.

JURISPRUDENCE

Books

Bilbo, Jack. Carrying a gun for Al Capone. Pp. 232. London: Putnam.

Caunter, C. F. Ex-gangster. Pp. 312. London: Eldon.

Crew, Albert. London prisons of today and yesterday. Pp. 268. London: Nicholson & Watson.

Fitch, H. T. Traitors within: the story of the special branch, new Scotland Yard. Pp. 312. Garden City, N. Y.: Doubleday.

Gaebelein, A. C. The conflict of the ages; the mystery of lawlessness. Pp. 171. N. Y.: Our Hope Pub. Office.

Gask, Arthur. Gentlemen of crime. Pp. 312. London: Jenkins.

Gloag, William M., and *Henderson, Robert C.* Introduction to the law of Scotland. 2d ed. Pp. 712. Edinburgh: W. Green & Son.

Hannay, R. K. The college of justice: the institution and development of the court of session. Pp. 192. London: Hodge.

Harno, Albert J. Cases and other materials on criminal law and procedure. Pp. 1010. Chicago: Callaghan.

Holmes, W. L. An Englishman among gangsters. Pp. 312. London: Jenkins.

Lunn, Arnold. Within the precincts of the prison. Pp. 285. London: Hutchinson.

Martin, K. J. The waiver of jury trials in criminal cases in Ohio. Baltimore: Johns Hopkins Press.

Mullett, Charles F. Fundamental law and the American revolution. Pp. 216. N. Y.: Columbia Univ. Press.

Schlosser, A. L. "Lawyers must eat." Pp. 248. N. Y.: Vanguard.

Warner, Florence M. Juvenile detention in the United States. Pp. 238. Chicago: Univ. of Chicago Press.

Articles

Administrative Law. Theorie générale des contrats de l'administration. *Gaston Jèze.* Rev. Droit Pub. et Sci. Pol. July–Sept., 1933.

———. Court aperçu sur les possibilités réservées en Estonie aux personnes privées pour protéger leurs intérêts contre les actes des pouvoirs administratifs. *A. Palvadre.* Rev. Int. des Sciences Admin. July–Sept., 1933.

Bar. The lawyers' part in preserving individual liberty. *J. S. Wilkerson.* Ind. Law Jour. Dec., 1933.

Crime. The gunman and his gun. *A. A. Bruce* and *Shurl Rosmarin.* Jour. Crim. Law & Crim. Sept.–Oct., 1933.

———. A murder a day. *P. W. Wilson.* No. Am. Rev. Nov., 1933.

Crimes Against Foreign States. La repression des crimes et délits contre la sûreté des états étrangers. *L. Preuss.* Rev. Gén. Droit Int. Pub. Sept.–Oct., 1933.

Conflict of Laws. Una doctrina moderna de derecho internacional privado. *E.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Frankenstein. Rev. Gen. Derecho y Juris. July–Sept., 1933.

———. A critique of the choice-of-law problem. *David F. Cavers.* Harvard Law Rev. Dec., 1933.

———. Les conflits de lois relatifs aux immeubles situés aux frontières des états. *J. P. Niboyet.* Rev. Droit Int. et Légis. Comp. No. 3, 1933.

———. Remarques sur l'ordre public. *P. Louis Lucas.* Rev. Droit Int. Privé. No. 3, 1933.

Delinquency. Delinquency areas in the Puget Sound region. *N. S. Hayner.* Am. Jour. Soc. Nov., 1933.

Glanvill. Glanvill on the common law: *les terrae* and *ius regni. Max Radin.* Pa. Law Rev. Nov., 1933.

Grand Jury. The abolition of grand juries in England. *W. J. Heyting.* Am. Bar Assoc. Jour. Nov., 1933.

Growth of Law. Motor vehicles and the judicial development of Anglo-American law. *W. J. Heyting.* Jurid. Rev. Sept., 1933.

———. The growth of a dictum. *F. N. Richman.* Ind. Law Jour. Dec., 1933.

Judiciary. Selection of judges. *Symposium.* Am. Bar Assoc. Jour. Nov., 1933.

———. The function of the bar in judicial elections. *A. V. Cannon.* Com. Law League Jour. Nov., 1933.

Jury. Jury trial, waiver thereof, and the alternate juror. *A. A. Naff.* Ky. Law Jour. Nov., 1933.

———. The disregard of the doctrine of reasonable doubt. *M. D. Blossner.* St. John's Law Rev. Dec., 1933.

Law Reform. Essays in law reform: a ministry of justice. *R. S. T. Chorley.* Pol. Quar. Oct.–Dec., 1933.

Legal Concepts. Legal conclusions. *B. C. Gavit.* Ind. Law Jour. Nov., 1933.

———. Étude sur la classification des divers situations juridiques. *M. R. Latournerie.* Rev. Droit Pub. et Sci. Pol. July–Sept., 1933.

———. Genetics and the law. *A. S. Wiener.* St. John's Law Rev. Dec., 1933.

Legal Philosophy. Die nationale Revolution im rechts- und sozialphilosophischen Licht. *W. Sauer.* Revolution und Rechtspolitik. *W. Ostwald.* Archiv Rechtsphilosophie. July, 1933.

———. A comparison of ideals of law. *Roscoe Pound.* Harvard Law Rev. Nov., 1933.

———. Law and the social order. *Max Lerner.* Harvard Law Rev. Dec., 1933.

———. Metaphysik und Rechtslehre. *O. Kraus.* Zeitschrift gesamte Staatswissenschaft. Vol. 94, no. 3.

———. Die reine Normtheorie des Rechts. *S. Rohatyn.* Interprétation et application de la règle du droit. *J. Sedláček.* Recht, Geld, Bild, Sprache. *G. Ledig.* Rev. Int. Théorie Droit. No. 3–4, 1933.

Legal Systems. The soviet legal system. *A. H. Robbins.* Am. Bar Assoc. Jour. Nov., 1933.

———. A comparison of delictual responsibility in law in the countries covered by a code. *E. F. Surveyer.* Tulane Law Rev. Dec., 1933.

Procedure. Criminal procedure in Canada. *W. R. Riddell.* U. S. Law Rev. Sept., 1933.

———. The Illinois civil practice act. *W. V. Schaefer* and *A. E. Jenner, Jr.* Summary judgment procedure. *E. R. Finch.* Am. Bar Assoc. Jour. Sept., 1933.

———. The new Illinois civil practice act: pleading. *Roswell Magill.* The provisions relating to trial practice in the new Illinois civil practice act. *Edson R. Sunderland.* The new Illinois civil practice act. *Charles E. Clark.* Chicago Law Rev. Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. The effect of the civil practice act upon instructing juries in criminal cases. *H. M. Fischer.* Ill. Law Rev. Dec., 1933.

Punishment. Introducing the offender to institutional routine. *J. L. McCartney.* Jour. Crim. & Crim. Sept.–Oct., 1933.

———. After the verdict. *Unsigned.* Quar. Rev. Oct., 1933.

Racketeering. Men of action. *Joseph Driscoll.* New Outlook. Nov., Dec., 1933.

Statutory Interpretation. A comparative view of the interpretation of statute law. *H. C. Gutteridge.* Tulane Law Rev. Dec., 1933.

Vagrancy. On so-called vagrancy. *Olaf Kinberg.* Jour. Crim. Law & Crim. Sept.–Oct., 1933.

LOCAL GOVERNMENT

Books

Douglas, John F. The mayor's court of Hamilton county, Ohio. Baltimore: Johns Hopkins Press.

Dudley, L. L. The school and the community; a study of local control in the public schools of Massachusetts. Pp. 190. Cambridge, Mass.: Harvard Univ. Press.

Edwards, R. A. Plain tales from the slums. Pp. 192. London: Centenary Press.

Finer, Herman. English local government. Pp. 547. London: Methuen.

Freeman, A. W. A study of rural public health service. N. Y.: Commonwealth Fund.

Pownall, J. F. Transport reform in Great Britain. London: Author.

Simon, Sir E. D. The anti-slum campaign. Pp. 214. London: Longmans.

Taft, Charles P. City management, the Cincinnati experiment. Pp. 283. N. Y.: Farrar & Rinehart.

Thomas, J. H. Town government in the sixteenth century. London: Allen & Unwin.

Weaver, F. P., and *Alderfer, H. F.* County government costs in Pennsylvania. Pp. 79. State College (Pa.): Pa. State College.

Articles

Bankruptcy. Shall bankruptcy jurisdiction be extended to include municipalities and other taxable subdivisions? *Asa G. Briggs.* Am. Bar Assoc. Jour. Nov., 1933.

City Manager. The new opportunity for the city manager movement. *R. S. Childs.* Nat. Mun. Rev. Dec., 1933.

Cost of Government. A survey of municipal finances in Oregon. *Guy S. Claire.* Commonwealth Rev. July–Nov., 1933.

———. What's wrong with our cities? *E. M. Barrows.* Survey. Nov. 1, 1933.

———. West Virginia S.O.S. *John F. Sly* and *George A. Shipman.* Getting our bearings. *Murray Seasongood.* Nat. Mun. Rev. Nov., Dec., 1933.

Housing. The present state of the housing problem. *B. S. Rowntree.* Contemp. Rev. Oct., 1933.

———. Housing problems. *E. M. Fisher.* Quar. Jour. Econ. Nov., 1933.

———. The economics of the slums. *Edith E. Wood.* Current Hist. Nov., 1933.

———. Housing in national recovery program. *Edith E. Wood.* N. J. Municipalities. Dec., 1933.

Lighting. Crime and accidents due to improper illumination. *D. M. Diggs.* N. J. Municipalities. Dec., 1933.

Police. Bibliography on training of police. *Dorothy Campbell.* Practical use of police record systems. *Donald C. Stone.* Jour. Crim. Law & Crim. Sept.–Oct., 1933.

Public Utilities. Municipal corporations—power to regulate public utilities. *David Altman.* Cornell Law Rev. Dec., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Rural Government. Approaches to the study of rural government. *Lane W. Lancaster.* Am. Jour. Soc. Nov., 1933.

Special Districts. A plague of special districts. *Kirk H. Porter.* Nat. Mun. Rev. Nov., 1933.

Taxation. Propriety of raising municipal tax rate to allow for delinquencies. *Unsigned.* Yale Law Jour. Nov., 1933.

Traffic. The London passenger transport act. *A. Plummer.* Quar. Jour. Econ. Nov., 1933.

Urbanism. L'urbanisme en Allemagne, en Angleterre, et aux États-Unis. *S. Jeunet.* Rev. Pol. et Parl. Oct., 1933.

POLITICAL THEORY AND MISCELLANEOUS

Books

Baker, Augustus. The control of prices: an outline of prosperity. Pp. 188. London: Dent.

Beales, H. L. The early English socialism. Pp. 96. London: H. Hamilton.

Berdyaev, Nicholas. The end of our time. Pp. 258. London: Sheed & Ward.

O. F. Boucke. Laissez faire and after. Pp. 342. N. Y.: Crowell.

Brameld, Theodore. A philosophic approach to communism. Pp. 242. Chicago: Univ. of Chicago Press.

Brierley, Harold E. Freedom and faith. Pp. 160. London: Allenson.

Brinton, Crane. English political thought in the nineteenth century. Pp. 320. London: Benn.

Brussaly, Manuel. The political ideas of Stendhal. Pp. 246. N. Y.: G. L. van Roosbroeck.

Burns, Emile. Capitalism, communism, and the transition. Pp. 287. London: Gollancz.

Bye, E. C. A bibliography on the teaching of the social studies. Rev. ed. Pp. 104. N. Y.: H. W. Wilson.

Charques, R. D. Contemporary literature and social revolution. Pp. 208. London: Secker.

Coker, Francis W. Recent political thought. Pp. 500. N. Y.: Appleton-Century.

Cole, G. D. H. What is this socialism? Pp. 32. London, Gollancz.

Dulles, Eleanor L. The dollar, the franc, and inflation. N. Y.: Macmillan.

Einzig, Paul. The sterling, dollar, franc tangle. Pp. 219. London: K. Paul.

Fisher, Irving. After reflation what? N. Y.: Adelphi.

Gregory, T. E. Gold, unemployment, and capitalism. Pp. 324. London: King.

Gurian, Waldemar. Bolshevism: theory and practice. Pp. 402. London: Sheed & Ward.

Hamilton, Mary Agnes. Sidney and Beatrice Webb: a study in contemporary biography. Pp. 324. London: Low.

Headlam, C., ed. The Milner papers. Vol. 2: South Africa, 1899–1905. Pp. 604. London.

Headlam-Morley, J. W. Election by lot at Athens. 2d ed. London: Cambridge Univ. Press.

Hasebroek, Johannes. Trade and politics in ancient Greece. Pp. 199. London: Bell.

Hecker, Julius F. Religion and communism. Pp. 315. London: Chapman & Hall.

Macmurray, John. Philosophy of communism. London: Faber & Faber.

LICENSED TO UNZ.ORG
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Malone, Dumas, ed. Dictionary of American biography. Vol. 12. Pp. 657. N. Y.: Scribner.

Maritain, Jacques. Some reflections on culture and liberty. Chicago: Univ. of Chicago Press.

Mayo, Elton. The human problems of an industrial civilization. Pp. 195. N. Y.: Macmillan.

Mowat, R. B. Public and private morality. Pp. 143. London: Arrowsmith.

Munro, I. S. Through fascism to world power. Pp. 460. London: Maclehose.

Mussolini, Benito. The political and social doctrine of fascism. Pp. 26. London: Hogarth.

Page, Kirby. Individualism and socialism. Pp. 376. N. Y.: Farrar & Rinehart.

Postgate, R. W. Karl Marx. Pp. 92. London: H. Hamilton.

Rawlinson, A. E. J. Authority and freedom. Pp. 189. London: Longmans.

Robertson, H. M. Aspects of the rise of economic individualism: a criticism of Max Weber and his school. Pp. 239. London: Cambridge Univ. Press.

Seligman, E. R. A., and *Johnson, Alvin*, eds. Encyclopaedia of the social sciences. Vol. 11. Pp. 660. N. Y.: Macmillan.

Walsh, Henry H. The concordat of 1801; a study of the problem of nationalism in the relation of church and state. Pp. 259. N. Y.: Columbia Univ. Press.

Articles

Censorship. Censorship at common law and under modern dispensation. *Garrard Glen.* Pa. Law Rev. Dec., 1933.

Communism. Capitalism and Communism. *Unsigned.* Round Table. Sept., 1933.

———. Under which communism? *J. C. Pringle.* Nat. Rev. Dec., 1933.

Contemporary Politics. La crise politique des sociétés modernes. *J. Bardoux.* L'Esprit Int. Oct., 1933.

———. A sign of the times. *Charles A. Beard.* Nat. Mun. Rev. Dec., 1933.

Economic Politics. Le national-socialisme et l'économie dirigée. *C. Hérisson.* Rev. Pol. et Parl. Oct., 1933.

———. Critique of a revision of some fundamental economic concepts. *T. M. Ave-Lallemant.* Marquette Law Rev. Dec., 1933.

Fascism. The meaning and significance of fascism. *Carmen Haider.* Pol. Sci. Quar. Dec., 1933.

Macdonald. The political ideas of John A. Macdonald. *T. W. L. MacDermot.* Canadian Hist. Rev. Sept., 1933.

Mann. Thomas Mann: his prose and politics. *August Closs.* Contemp. Rev. Oct., 1933.

Nature of the State. Kritik der Lehre Carl Schmitts über die Verfassungsänderung. *P. Hartmann.* Das Daseinsproblem des Staates. *L. Franke.* Rev. Théorie Droit Int. No. 3–4, 1933.

Popular Government. The eclipse of democratic civilization. *Marquess of Lothian.* Contemp. Rev. Oct., 1933.

———. "Safe for democracy." *F. J. C. Hearnshaw.* Nat. Rev. Nov., 1933.

———. The goal of government. *Walter L. Whittlesey.* Survey. Nov. 1, 1933.

———. The cult of force. *Lewis Einstein.* No. Am. Rev. Dec., 1933.

———. The present crisis in democracy. *A. Lawrence Lowell.* For Affairs. Jan., 1934.

Revolutions. The bureaucratic culture pattern and political revolutions. *Max Handman.* Am. Jour. Soc. Nov., 1933.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Sumner. William Graham Sumner's conception of society: an interpretation. *R. E. Park.* Chinese Soc. and Pol. Sci. Rev. Oct., 1933.

Teaching. L'enseignement des sciences politiques en Italie. *R. Michels.* Rev. Sci. Pol. July–Sept., 1933.

GOVERNMENT PUBLICATIONS

MILES O. PRICE
Law Library, Columbia University

AMERICAN

UNITED STATES

Congress

House of representatives. Civil service preference, retirement, and salary classification laws; compiled by Elmer A. Lewis, superintendent Document Room . . . Washington: Govt. Ptg. Off., 1933.

Internal revenue taxation, joint committee. Federal and state death taxes, reports to joint committee . . . pursuant to sec. 1203 (b) (6), revenue act of 1926. v. 2, pt 2. Washington: Govt. Ptg. Off., 1933. 256 p. (This report has been printed for discussion purposes, but has not yet been acted upon by the committee.)

Senate. Banking and currency committee. Stock exchange practices, hearings, 73rd Congress, 1st session . . . to investigate practices of stock exchanges . . . to investigate matter of banking operations and practices . . . with view to recommending necessary legislation, under taxing power or other federal powers. Pt. 3. Washington: Govt. Ptg. Off., 1933. 957–1533 pp.

——— *Judiciary committee.* Uniform system of bankruptcy, joint hearings before subcommittees of committee on judiciary, 72nd Congress, 1st session . . . Washington: Govt. Ptg. Off., 1933. 1129 p. (These hearings include those on bankruptcy of municipal corporations.)

STATE AND TERRITORIAL

ALABAMA

Dept. of archives and history. The secession movement in Alabama, by Clarence P. Denman. Montgomery, 1933. 190 p.

GEORGIA

University of Georgia, Athens. Institute of public affairs. Proceedings of the institute of public affairs, seventh annual session, May 8–16, 1933. Athens, 1933. 174 p.

IOWA

Historical society, Iowa City. The legislation of the forty-fifth general assembly of Iowa, regular session, by Jacob A. Swisher and Ruth A. Gallaher. Iowa City, 1933. 178 p. (Iowa monograph series, no. 5.)

MISSOURI

Secretary of state. Official manual for years 1931 and 1932. Compiled by Charles U. Becker, secretary of state. Jefferson City, 1933. 743 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NEW YORK

Dept. of state. Manual for the use of the legislature . . . Albany, 1933. 1173 p.

VIRGINIA

William and Mary College, Williamsburg. The constitution and current economic problems, by Patrick J. Hurley . . . Sixth lecture of the Cutler foundation. Williamsburg, 1933. 39 p.

WISCONSIN

Legislature. Assembly. The Assembly manual of the Wisconsin legislature, comprising directory, constitutions, Jefferson's manual, rules, forms, and statutory provisions. Annotated. Madison, 1933. 392 p.

FOREIGN AND INTERNATIONAL

CHINA

National library, Peking. Catalogue of Chinese government publications. Parts 1 and 2, 1928–1932. Peking, 1933. (Text for the most part in Chinese, but some entries in English.)

BENGAL

Publicity board. The federal constitution of India, 1932–33; Indian currency policy, 1806–1932; Indian fiscal policy, 1932–1933; state aid to industries, 1933. (Four separate publications on government policy in India.)

FRANCE

Ministère des affaires étrangères. Pacte d'entente et de collaboration, paraphré à Rome le 7 Juin 1933 . . . Paris, Imp. des Journaux Officiels, 1933. 30 p.

ITALY

Consiglio di stato. Il consiglio de stato; studi in occasione del centenario. Roma, Istituto poligrafico dello stato, 1932. (This work, in three well bound and printed volumes, is another example of the remarkable public documents being issued from time to time by the Italian government. Invaluable for the investigator of Italian administrative and legal procedure.)

RUSSIA

Gosudarstvenaia plannovaia komissia. . . . Summary of the fulfillment of the first five-year plan for the development of the national economy of the U.S.S.R. Moscow, 1933. 296 p.

LEAGUE OF NATIONS

Taxation of foreign and national enterprises. v. 2–5. Geneva, 1933. (The first volume was published in 1932.) This voluminous work covers twenty-three countries, in addition to the states of Massachusetts, New York, and Wisconsin. Volume 4 is a monograph on methods of allocating taxable income, by Mitchell B. Carroll; while volume 5 is on allocation accounting for the taxable income of industrial enterprises, by Ralph C. Jones.

SEVENTH INTERNATIONAL CONFERENCE OF AMERICAN STATES, Montevideo, Uruguay, December 3, 1933.

The Pan American Union, Washington, D. C., has published the following material for the use of delegates to the conference:

Special handbook for the use of delegates. 116 p.

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Report of the permanent committee on public international law, of Rio de Janeiro, on topic 7 of the conference. 8 p.

Commercial arbitration in the American republics. 67 p.

A comparative study of the laws and regulations governing aërial navigation in the countries, members of the Pan American Union. 40 p.

Projects on certain topics of the program, submitted by the executive committee of the American institute of international law. . . . 54 p.

Report submitted by the executive committee of the American institute of international law . . . concerning . . . inter-American copyright protection and the possibility of reconciling the Habana and Rome conventions. 31 p.

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